ACTS
OF THE
FORTY-NINTH
LEGISLATURE
OF
WEST VIRGINIA

REGULAR SESSION
1949
FOREWORD

This volume contains the acts of the 1949 Regular Session of the Forty-Ninth Legislature, and the resolutions adopted by the Legislature and the two Houses thereof during this session.

The 1949 Regular Session convened on January 12, and adjourned sine die March 12, thereby finishing its work within the sixty-day period prescribed by the State Constitution. During the session, there was a total of 679 bills introduced—401 House Bills and 278 Senate Bills. The Legislature passed 98 House Bills and 71 Senate Bills.

Of the 169 enactments of the session, the Governor approved 163 and vetoed five. The Budget Bill does not require executive action. The acts vetoed were: H. B. No. 35 (Use of two per cent tax collected by Insurance Commissioner from fire insurance companies for fire department dues account), H. B. No. 36 (Taxes paid by fire insurance companies to Insurance Commissioner to be carried in a separate fire department dues account), H. B. No. 224 (Appointment, qualifications and salary of Chief of the Department of Mines, mine inspectors, miners examining board, etc.), S. B. No. 17 (Fees of constables in civil cases) and S. B. No. 243 (Giving State Board of Education authority to employ and fix salaries of certain of its administrative, supervisory and clerical employees).

During this session there were 34 House Concurrent, 16 House Joint and 26 House Resolutions offered, of which 14 House Concurrent, 2 House Joint and 24 House Resolutions were adopted. Sixteen Senate Concurrent, 7 Senate Joint and 13 Senate Resolutions were offered, of which 11 Senate Concurrent, 1 Senate Joint and 11 Senate Resolutions were adopted.

Fifty-seven House Bills, passed by the House, failed of passage by the Senate; and 12 Senate Bills, passed by the Senate, failed of passage by the House. One Senate Bill, No. 65, went to conference, and the Committee of Conference failed to report thereon.

The only free distribution of this volume authorized is to 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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MEMBERS, OFFICERS AND STANDING COMMITTEES
REGULAR SESSION, 1949

SENATE
OFFICERS
President—W. BROUGHTON JOHNSTON, Princeton.
President Pro Tempore—FRED C. ALLEN, Marlinton.
Clerk—J. HOWARD MYERS, Martinsburg.
Sergeant-at-Arms—CARROLL GREENE, Kenna.
Doorkeeper—GUY DOUGLAS, Lookout.

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<tr>
<td></td>
<td>*Herbert Traubert (D)</td>
<td>Elk Valley</td>
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<td>*Theodore M. Bowers (R)</td>
<td>Follansbee</td>
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<td>Donald Van Camp (R)</td>
<td>New Martinsville</td>
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<td>Middlebourne</td>
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<td>*Harry E. Moote (R)</td>
<td>Parkersburg</td>
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<td>Spencer</td>
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<td>Thirteenth</td>
<td>*Floyd D. Boner (D)</td>
<td>Salem, R.F.D.</td>
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<td>Don J. Eddy (D)</td>
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<td></td>
<td>*C. Howard Hardesty (D)</td>
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<tr>
<td>Fifteenth</td>
<td>*A. L. Reed (R)</td>
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<td>Dayton R. Stemple (R)</td>
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<tr>
<td>Sixteenth</td>
<td>*Ralph J. Bean (D)</td>
<td>Moorefield</td>
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<td></td>
<td>Harvey D. Beeler (R)</td>
<td>Berkeley Springs</td>
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(D) Democrat................................................. 20
(R) Republican............................................ 12
Total......................................................... 32

(*) Hold-over Senators, elected in 1948, who will be members of the 1951 Legislature.
## HOUSE OF DELEGATES

### OFFICERS

**Speaker**—W. E. FLANNERY, Man.
**Clerk**—J. R. ALIFF, Fayetteville.
**Sergeant-at-Arms**—C. FRED COMBS, War.
**Doorkeeper**—ROYAL C. DAVIS, Clarksburg.

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<td>Thomas E. Wilkson (D)</td>
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(1) Resigned as a member of the House of Delegates to become Workmen's Compensation Commissioner May 1, 1949.
### HOUSE OF DELEGATES (Continued)

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<th>County</th>
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<td>C. A. Blankenship (D)</td>
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(D) Democrats ........................................... 68
(R) Republicans ......................................... 16

Total ..................................................... 94
STANDING COMMITTEES OF THE SENATE

AERONAUTICS
Messrs. McKinley, (Chairman), Amos, Bean, Reed and Borman.

AGRICULTURE
Messrs. Bowling (Chairman), Allen, Boner, Jackson (of Lincoln), Taylor (of Fayette), Taylor (of Mingo), Beeler, Jones and Stemple.

BANKS AND CORPORATIONS
Messrs. Jackson (of Logan) (Chairman), Allen, Bowling, Eddy, Love, Traubert, Borman, Bowers and Scott.

CLAIMS AND GRIEVANCES
Messrs. Love (Chairman), Jackson (of Lincoln), McKinley, Mitchell, Taylor (of Fayette), Jones, Karickhoff, Reed and Van Camp.

COUNTIES AND MUNICIPAL CORPORATIONS
Messrs. Amos (Chairman), Allen, Eddy, Jackson (of Logan), McNeer, Mitchell, Hannig, Jones and Scott.

EDUCATION
Messrs. McKown (Chairman), Bowling, Hardesty, Jackson (of Logan), Love, McKinley, McNeer, Taylor (of Fayette), Taylor (of Mingo), Borman, Bowers, Karickhoff, Reed and Scott.

EXAMINE CLERK’S OFFICE
Messrs. Boner (Chairman), McKown and Karickhoff.

FEDERAL RELATIONS
Messrs. Traubert (Chairman), Bean, Boner, Jackson (of Lincoln), Taylor (of Fayette), Borman, Karickhoff, Sinsel and Van Camp.

FINANCE
Messrs. Hardesty (Chairman), Allen, Amos, Bowling, Jackson (of Logan), McKinley, McNeer, Mitchell, Taylor (of Mingo), Winters, Wylie, Beeler, Borman, Bowers, Hannig, Karickhoff, Reed and Scott.

FORESTRY AND CONSERVATION
Messrs. Bowling (Chairman), Allen, Amos, Eddy, Jackson (of Logan), McKinley, McKown, Wylie, Beeler, Hannig, Jones, Reed, Scott and Van Camp.
SENATE COMMITTEES

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS
Messrs. Eddy (Chairman), Amos, Bean, Boner, Jackson (of Logan), McNeer, Jones, Moats and Sinsel.

INSURANCE
Messrs. Eddy (Chairman), Hardesty, Love, McKown, McNeer, Taylor (of Mingo), Karickhoff, Reed and Van Camp.

INTERSTATE COOPERATION
Messrs. Taylor (of Mingo), (Chairman), Bean, Jackson (of Logan), Bowers and Moats.

THE JUDICIARY
Messrs. Bean (Chairman), Allen, Boner, Bowling, Eddy, Jackson (of Lincoln), Love, McKown, McNeer, Taylor (of Fayette), Traubert, Wylie, Bowers, Jones, Moats, Sinsel, Stemple and Van Camp.

LABOR
Messrs. Eddy (Chairman), Boner, Bowling, McKown, Traubert, Wylie, Bowers, Moats and Stemple.

MEDICINE AND SANITATION
Messrs. Wylie (Chairman), Allen, Jackson (of Lincoln), Love, McKinley, Traubert, Boreman, Jones and Stemple.

MILITIA
Messrs. Mitchell (Chairman), Boner, Bowling, Traubert, Winters, Beeler, Bowers, Jones and Stemple.

MINES AND MINING
Messrs. Jackson (of Lincoln) (Chairman), Amos, Hardesty, Jackson (of Logan), Taylor (of Mingo), Winters, Beeler, Moats and Sinsel.

PENITENTIARY
Messrs. Mitchell (Chairman), Love, McKinley, Taylor (of Fayette), Traubert, Wylie, Moats, Stemple and Van Camp.

PRIVILEGES AND ELECTIONS
Messrs. Taylor (of Fayette) (Chairman), Amos, Boner, McKown, Mitchell, Beeler, Hannig, Karickhoff and Sinsel.

PUBLIC BUILDINGS AND HUMANE INSTITUTIONS
Messrs. Wylie (Chairman), Amos, Hardesty, Jackson (of Lincoln), Taylor (of Fayette), Taylor (of Mingo), Winters, Beeler, Hannig, Karickhoff, Sinsel and Van Camp.
SENATE COMMITTEES

PUBLIC LIBRARY
Messrs. McKown (Chairman), Amos, Boner, Hardesty, Jackson (of Logan), Taylor (of Mingo), Beeler, Reed and Scott.

PUBLIC PRINTING
Messrs. McKinley (Chairman), Bean, Hardesty, Love, Mitchell, Winters, Scott, Sinsel and Stemple.

ROADS AND NAVIGATION
Messrs. Winters (Chairman), Amos, Bean, Bowling, Eddy, Jackson (of Lincoln), Jackson (of Logan), McKinley, McNeer, Mitchell, Wylie, Bowers, Hannig, Karickhoff, Scott, Sinsel and Stemple.

RAILROADS
Messrs. Love (Chairman), Bowling, Hardesty, Jackson (of Lincoln), McKinley, McKown, Boreman, Reed and Sinsel.

REDISTRICTING
Messrs. McNeer (Chairman), Allen, Mitchell, Taylor (of Fayette), Traubert, Winters, Beeler, Bowers and Sinsel.

RULES
Messrs. Johnston (Mr. President) (Chairman), Allen, Bean, Hardesty, McKown, Wylie, Boreman, Hannig and Reed.

TEMPERANCE
Messrs. Jackson (of Logan) (Chairman), Boner, Love, Taylor (of Fayette), Taylor (of Mingo), Winters, Hannig, Jones and Moats.

VETERANS' AFFAIRS
Messrs. Allen (Chairman), Eddy, Jackson (of Lincoln), McNeer, Mitchell, Wylie, Moats, Scott and Van Camp.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE
Messrs. Johnston (Mr. President) (Chairman), Bean and Boreman.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE
Messrs. McNeer (Chairman), Taylor (of Mingo), Traubert, Hannig and Van Camp.
STANDING COMMITTEES OF THE HOUSE OF DELEGATES

AGRICULTURE
Messrs. McLaughlin (of Greenbrier) (Chairman), Trumbo (Vice Chairman), Barger, Cyphers, Lilly, McLaughlin (of Braxton), Perry, Peters, Pomroy, Powell (of Hampshire), Smith (of Calhoun), White (of Cabell), Wright, Dawson, McCulty, Mouse and Sayre.

BANKING
Messrs. McElwee (Chairman), Hall (Vice Chairman), Ballard (of Mercer), Campbell (of Greenbrier), Carroll, Davis, Doringer, File, Hudgins, Kidd, Lilly, Matthews, Peters, Schupbach, Tetrick, White (of Boone), White (of Cabell), Wilkison, Ballard (of Monroe), Beneke, Overton and Underwood.

CLAIMS
Messrs. Matthews (Chairman), White (of Cabell), (Vice Chairman), Campbell (of Greenbrier), Caplan, File, Greenlee, Hunt, Kidd, McElwee, McLaughlin (of Greenbrier), Pomroy, Roach, Roberts, Robinson, Schupbach, White (of Boone), Young, Farr and Mouse.

COUNTIES, DISTRICTS AND MUNICIPALITIES
Messrs. Tucker (Chairman), Burke (Vice Chairman), Ballard (of Mercer), Burt, Byrd, Campbell (of Cabell), Doyle, Goff, Hall, Kidd, Leap, Lilly, Maloney, Nuzum, Roach, Wilkison, Woodyard, Dawson, Farr, Overton and Zinn.

DELINQUENT LANDS
Messrs. Davis (Chairman), Caplan (Vice Chairman), Ballard (of Mercer), Campbell (of Greenbrier), Doringer, Greenlee, Kidd, Knight, Leap, Pauley, Phillips, Prather, Robinson, Scanes, Tetrick, Mrs. Walker, Messrs. Wilkison, Young, Mouse, Sayre and Underwood.

EDUCATION
Messrs. Blankenship (Chairman), Mullins (Vice Chairman), Branney, Davis, Doringer, Ellis, Goff, Greenlee, Holt, Hunt, Loop, McCormick, Schupbach, Shaffer, Smith (of Calhoun), Smith (of Putnam), Snelson, Mrs. Walker, Messrs. White (of Cabell), Whitt, Young, Dawson, Powell (of Pleasants), Whetseill and Zinn.
HousE CoMMitteeS

ELECTIONS

Messrs. Snelson (Chairman), Tetrick (Vice Chairman), Barger, Board, Byrd, Cyphers, File, Hudgins, Martin, Pomroy, Richards, Shaffer, Smith (of Calhoun), White (of Boone), Wilkinson, Woodyard, Wright, Creel, Powell (of Pleasants), Rairden and Underwood.

FINANCE

Messrs. Cline (Chairman), McElwee (Vice Chairman), Burke, Byrd, Carroll, Davis, Doyle, Ellis, Holt, Lilly, Maloney, Martin, McLaughlin (of Braxton), McLaughlin (of Greenbrier), Perry, Roberts, Schupbach, Stidham, Tetrick, White (of Boone), Ballard (of Monroe), McCulty, Powell (of Pleasants), Rairden and Underwood.

FORESTRY AND CONSERVATION

Messrs. McCoy (Chairman), Powell (of Hampshire), (Vice Chairman), Adkins, Ballard (of Mercer), Blankenship, Cyphers, Hall, Hunt, Jones, McCormick, Mullins, Perry, Pomroy, Prather, Roberts, Smith (of Putnam), Trumbo, Tucker, Beneke, Creel, Overton and Whetsell.

GAME AND FISH

Messrs. Hall (Chairman), Board (Vice Chairman), Burke, Ellis, Hall, Johnston, Knight, Leap, Martin, McCoy, Mullins, Nuzum, Powell (of Hampshire), Scanes, Trumbo, Tucker, Whitt, Wright, Beneke, Creel, Mouse and Whetsell.

HEALTH

Mrs. Walker (Chairman), Messrs. Davis (Vice Chairman), Adkins, Barger, Burke, Burt, Campbell (of Cabell), Goff, Greenlee, Hall, Holt, Leap, Mullins, Pauley, Richards, Tetrick, White (of Cabell), Whitt, Wright, Young, McCulty, Powell (of Pleasants), Rairden and Whetsell.

HUMANe INSTITUtiONS

Messrs. Phillips (Chairman), Johnston (Vice Chairman), Byrd, Davis, Doringer, Doyle, Holt, Jones, Manchin, Mills, Nuzum, Powell (of Hampshire), Prather, Shaffer, Smith (of Calhoun), Snelson, Tucker, White (of Boone), McCulty, Powell (of Pleasants), Whetsell and Zinn.
INSURANCE

Messrs, Trent (Chairman), Burt (Vice Chairman), Ballard (of Mercer), Board, Campbell (of Cabell), Carroll, Cline, Doringer, Ellis, Greenlee, Kidd, Manchin, Matthews, McElwee, Peters, Powell (of Hampshire), Schupbach, Smith (of Putnam), Tucker, Whitt, Woodyard, Ballard (of Monroe), Flaccus, Morgan and Sayre.

INTERSTATE COOPERATION

Messrs. Holt (Chairman), File, Trent, Morgan and Underwood.

JUDICIARY

Messrs. File (Chairman), Kidd (Vice Chairman), Campbell (of Cabell), Caplan, Casey, Doringer, Hudgins, Johnston, Knight, Loop, McCoy, Peters, Powell (of Hampshire), Roach, Trent, Tucker, Mrs. Walker, Messrs. Wilkison, Woodyard, Beneke, Farr, Morgan and Overton.

LABOR AND INDUSTRY

Messrs. Loop (Chairman), Robinson (Vice Chairman), Adkins, Barger, Branney, Burke, Casey, Isaacs, Johnston, Jones, Knight, Manchin, Martin, Mills, Nuzum, Phillips, Prather, Richards, Scanes, Smith (of Calhoun), Smith (of Putnam), Beneke, Creel, Rairden and Sayre.

MILITARY AFFAIRS

Messrs. Perry (Chairman), Whitt (Vice Chairman), Campbell (of Cabell), Casey, Ellis, Hudgins, Hunt, Isaacs, Jones, Loop, McCormick, Phillips, Pomroy, Prather, Trumbo, Creel, Farr, Overton and Zinn.

MINING

Messrs. Stidham (Chairman), Mills (Vice Chairman), Adkins, Branney, Campbell (of Greenbrier), Cyphers, Hudgins, Hunt, Loop, Manchin, Pauley, Peters, Phillips, Richards, Robinson, Snelson, Tetrick, Mrs. Walker, Messrs. Dawson, Flaccus, Mouse and Whetsell.

PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Schupbach (Chairman), Wilkison (Vice Chairman), Blankenship, Burt, Carroll, Casey, Cline, Goff, Isaacs, Jones, Leap, McLaughlin (of Braxton), McLaughlin (of Greenbrier), Perry, Roach, Smith (of Putnam), Snelson, Trent, Trumbo, Young, Dawson, Morgan, Sayre and Zinn.
RAILROADS

Messrs. Casey (Chairman), McLaughlin (of Braxton) (Vice Chairman), Adkins, Board, Branney, Davis, File, Holt, Kidd, Maloney, McCormick, McElwee, McLaughlin (of Greenbrier), Pauley, Perry, Scanes, Trent, Woodyard, Ballard (of Monroe), Dawson, Flaccus, Underwood and Whetsell.

REDISTRICTING

Messrs. Robinson (Chairman), Roberts (Vice Chairman), Blankenship, Board, Doyle, Knight, Lilly, Loop, Matthews, Mullins, Snelson, Stidham, Farr, Flaccus and Morgan.

ROADS

Messrs. Kidd (Chairman), Carroll (Vice Chairman), Blankenship, Casey, Davis, Goff, Hall, Isaacs, Maloney, Martin, McCormick, McCoy, McLaughlin (of Braxton), McLaughlin (of Greenbrier), Mullins, Nuzum, Pauley, Richards, Shaffer, Smith (of Putnam), Creel, Dawson, Flaccus, Morgan and Mouse.

RULES

Messrs. Flannery (Chairman ex officio), Cline, Doringer, File, Schupbach, Trent, Tucker, Mrs. Walker, Messrs. Powell (of Pleasants) and Underwood.

TEMPERANCE

Messrs. Roach (Chairman), Scanes (Vice Chairman), Adkins, Branney, Burt, Campbell (of Greenbrier), Cline, Cyphers, Doyle, Knight, Maloney, Manchin, Martin, McCoy, McLaughlin (of Braxton), Mills, Richards, Stidham, Ballard (of Monroe), Beneke, Rairden and Zinn.

VETERANS' AFFAIRS

Messrs. Woodyard (Chairman), Nuzum (Vice Chairman), Barger, Byrd, Campbell (of Cabell), Caplan, Doyle, Isaacs, Johnston, Lilly, Manchin, Mills, Roberts, Scanes, Shaffer, Snelson, Stidham, Trent, Trumbo, Whitt, Wright, Ballard (of Monroe), McCulty, Morgan and Overton.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Matthews (Chairman), Perry, Peters, Powell (of Pleasants) and Ballard (of Monroe).

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Flannery (Speaker) (Chairman ex officio), File and Underwood.
AN ACT to amend and reenact section five, article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the enforcement of vendor's liens and liens created by deeds of trust and mortgages on real estate.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 2. Limitation of Actions and Suits.

Section 5. Enforcement of lien.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Enforcement of Lien.*—No lien reserved on the face of any conveyance of real estate, or lien created by any trust deed or mortgage on real estate, shall be valid or binding as a lien on such real estate, after the expiration of twenty years from the date on which the original debt or obligation secured thereby becomes due, unless suit to enforce the same shall have been instituted prior to the expiration of such period; and no extension of the
original time of payment of such debt or obligation, or re-
newal of any note or other evidence of indebtedness se-
cured by such lien, or provision for such extension or
renewal in such conveyance, trust deed or mortgage, shall
operate to extend the limitation of twenty years herein-
before provided: Provided, however, That the lien re-
served or created as aforesaid shall continue to be valid
and be enforceable, if, prior to the expiration of the said
original period of limitations, the vendor or the mortagee
or the trustee or beneficiary, or their successors or assigns,
shall execute and cause to be recorded in the office where
the original lien instrument was recorded an affidavit
setting forth the unpaid balance of the debt and interest
secured by such original lien instrument. Upon the filing
of such affidavit the lien of the original instrument shall
continue and be enforceable for an additional period of
twenty years from the date of the filing of such affidavit
unless sooner released, and the clerk of the court shall
cause the extension affidavit to be recorded and indexed
in the same manner as the original lien instrument and
shall note the fact of filing such extension affidavit on
the margin of the page where the original lien instru-
ment is recorded. Such affidavit shall recite the book and
page of recordation of the original deed, deed of trust or
mortgage. The provisions of this section shall apply, with
like effect, to every such lien now existing, as well as to
every such lien hereafter reserved or created.

CHAPTER 2
(Com. Sub. for Senate Bill No. 133-Originating in the Senate Committee
on the Judiciary)

AN ACT to amend and reenact section twelve, article two,
chapter fifty-five of the code of West Virginia, one thou-
sand nine hundred thirty-one, relating to the limitation
of time within which certain personal actions shall be
commenced.

(Passed March 7, 1949; in effect ninety days from passage. Approved by the
Governor.)
Article 2. Limitation of Actions and Suits.

Section 12. Personal actions not otherwise provided for.

Be it enacted by the Legislature of West Virginia:

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

Section 12. Personal Actions Not Otherwise Provided

For.—Every personal action for which no limitation is otherwise prescribed shall be brought (a) within two years next after the right to bring the same shall have accrued, if it be for a matter of such nature that, in case a party die, it can be brought by or against his representative; and (b) if it be for a matter not of such nature, shall be brought within one year next after the right to bring the same shall have accrued, and not after; and (c) every right of action mentioned above in clause (a) heretofore accrued shall be brought within two years hereafter or within five years from the time such action accrued, whichever shall be less.

CHAPTER 3

(Senate Bill No. 118—By Mr. Love)

AN ACT to amend article four, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section designated section fourteen-a, relating to proof of the location of reservations or exceptions contained in the instruments of title offered as evidence in any action, suit or other judicial proceeding, wherein the title to land is in controversy.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 4. Ejectment.

Section 14-a. Proof of the location of reservations or exceptions contained in the instruments of title offered as evidence in any action, suit
or other judicial proceeding, wherein the title to land is in controversy.

Be it enacted by the Legislature of West Virginia:

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

Section 14-a. Proof of the Location of Reservations or Exceptions Contained in the Instruments of Title Offered As Evidence in Any Action, Suit or Other Judicial Proceeding, Wherein the Title to Land is in Controversy.—In any action, suit or other judicial proceeding involving the title to land embraced in the exterior boundaries of any patent, deed, or other writing, which reserves or excepts one or more parcels of land from the operation of such patent, deed or other writing, if there be no claim made by a party to the proceedings that the land in controversy, or any part thereof, lies within such reservation or exception, such patent, deed, or other writing, shall be construed, and shall have the same effect, as if it contained no such reservation or exception; and if any party to such proceeding claims that the land in controversy, or any part thereof, lies within such reservation or exception, the burden shall be upon him to prove the fact, and all land not shown by a preponderance of the evidence to lie within such reservation or exception shall be deemed to lie without the same.

This act shall apply in cases involving the right to the proceeds of any such land when condemned or sold, as well as in cases where the title to land is directly involved, and shall apply in any case in which the title to any part of the land, or its proceeds, but for this act, would or might be in the state.

CHAPTER 4

(House Bill No. 401—By Mr. File and Mr. Ballard, of Monroe)

AN ACT to amend and reenact section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the termination or abatement of action for injury upon the death of either party, to survival of action for personal injury against wrongdoer and providing the limitation of time within which such actions shall be brought against the personal representative of such wrongdoer.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 7. Actions for Injuries.

Section 8. When action not to abate; survival of action for personal injury against wrongdoer; time within which such action must be brought.

Be it enacted by the Legislature of West Virginia:

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

Section 8. When Action Not to Abate; Survival of Action for Personal Injury against Wrongdoer; Time within which Such Action must be Brought.—Where an action is brought by a person injured for damage caused by the wrongful act, neglect or default of any person or corporation, and the person injured dies pending the action, the action shall not abate by reason of his death but, his death being suggested, it may be revived in the name of his personal representative, and the declaration and other pleadings shall be amended so as to conform to an action under sections five and six of this article, and the case proceeded with as if the action had been brought under said sections. But in such case there shall be but one recovery for the same injury. And any right of action which may hereafter accrue by reason of any injury done to the person of another, and not resulting in death, by the wrongful act, neglect or default of any person, shall survive the death of the wrongdoer and may be enforced against his executor or administrator, either by reviving against such personal representative a suit which may have been brought
22 against the wrongdoer himself in his lifetime, or by
23 bringing an original suit against his personal represent-
24 tive after his death, whether or not the death of the
25 wrongdoer occurred before or after the death of the in-
26 jured party; but any such action shall be instituted within
27 one year from the time such cause of action accrued.
28 Nothing contained in this section shall be construed to
29 extend the time within which an action for any other tort
30 shall be brought, nor to give the right to assign a claim
31 for a tort not otherwise assignable.

CHAPTER 5
(House Bill No. 186—By Mr. McLaughlin, of Greenbrier)

AN ACT to amend and reenact section nine, article seven,
chapter nineteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, and to further amend
said article seven by adding thereto a new section to be
designated section ten, all relating to state aid for fairs.

(Article 7. State Aid for Fairs.
Section
9. Greenbrier Valley Fair designated "The State Fair of West Vir-
ginia"; ex officio members of board of directors; appropriation.
10. Appropriations specifically made available for designated exhibit-
ations.

Be it enacted by the Legislature of West Virginia:

That section nine, article seven, chapter nineteen of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted, and that said article seven
be further amended by adding thereto a new section, designated
section ten, all to read as follows:

Section 9. Greenbrier Valley Fair Designated "The State
2 Fair of West Virginia"; Ex Officio Members of Board of
3 Directors; Appropriation.—The corporation now known
as "Greenbrier Valley Fair" is hereby designated "The State Fair of West Virginia"; with the exclusive right to the use of said designation, after such amendments as may be made necessary by such change of name, if any, are made in its charter, constitution and by-laws.

The governor and commissioner of agriculture are hereby made ex officio members of the board of directors of said fair association for the purpose of protecting the interests of the state in the awarding of premiums and in the arrangement of the agriculture and other exhibits.

The provisions of this section shall not alter, change or alienate the rights of any other association entitled to benefits under the provisions of this article, except as to the use of the name above designated.

For the purpose of encouraging agriculture and industry, the State Fair of West Virginia shall not be limited to the appropriations authorized by section one of this article. In the event the Legislature shall appropriate a sum of ten thousand dollars or more to the State Fair of West Virginia, then and in that event the said State Fair of West Virginia shall not participate in the benefits provided in section one of this article; and nothing contained in this article shall be construed or interpreted to prevent the State Fair of West Virginia from receiving the benefit of any sum specifically appropriated for its use by the Legislature, to pay awards and exhibition expenses.

The commissioner of agriculture is hereby empowered to make and enforce rules and regulations for the purpose of carrying out the provisions of this section.

Sec. 10. Appropriations Specifically Made Available for Designated Exhibitions.—For the purpose of encouraging agriculture, forestry, and industries related thereto, and when appropriations are specifically set out in the budget bill by the Legislature for any annual state exhibition, when such annual exhibition is held in the interest of the public and substantially supported financially by an association or corporation not operated for profit, the commissioner of agriculture is hereby authorized and em-
powered to expend such moneys for such purposes, and nothing contained in this article shall be construed or interpreted to prevent the commissioner from paying awards to exhibitors and expenses in connection with the operation of such annual exhibition.

The commissioner of agriculture is authorized and empowered to pay premiums and awards to the exhibitors of county, community and state shows of any agricultural or horticultural products when appropriations are specifically made available for such purposes.

CHAPTER 6
(Senate Bill No. 148—By Mr. Stemple)

AN ACT to amend section one, article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to communicable diseases among domestic animals.

(Passed March 9, 1949; in effect ninety days from passage. Approved by the Governor.)


Section 1. Definitions.

Be it enacted by the Legislature of West Virginia:

That section one, article nine, 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.—The following words, as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall have the following meanings:

(a) "Commissioner", the state commissioner of agriculture;
(b) "Animal", any domestic equine or bovine animal, sheep, goat, swine, dog, cat or poultry;
(c) "Owner", any person who owns, leases or hires any domestic animal from another, or who allows a domestic animal habitually to remain about the premises inhabited by such person;
(d) "Premises", is to be taken in its widest sense, and shall include land, any structure, building, pen, coop or inclosure thereon, and any vehicle, car or vessel used in transporting passengers, goods, or animals by land or water;
(e) "Communicable disease", actinobacillosis, actinomycosis, anaplasmosis, anthrax, apthous fever (foot-and-mouth disease), aujesky's disease (mad itch), bacillary hemoglobinuria, blackleg, brucellosis (cattle, swine and goats), contagious ecthyma (sheep sore mouth), contagious pleuropneumonia, dourine (horses), encephalomyelitis, equine encephalomyelitis, erysipelas (swine), glanders, hemorrhagic enteritis in swine, hemorrhagic septicemia (shipping fever), hog cholera, influenza (horses and swine), infectious equine anemia, infectious keratitis, Johne's disease (paratuberculosis in cattle), laryngotracheitis (poultry), leptospirosis, listerellosis, malignant oedema, necrobacillosis, newcastle disease (avian pneumonencephalitis), psittacosis, pullorum disease, pox (chicken, cow, swine and horse), Q fever, rabies, rinderpest, Rocky Mountain spotted fever (in rodents and dogs), salmonellosis, scabies (mange—in all species), tick fever, tularemia, trichinosis, trichomoniasis, tuberculosis, vesicular exanthema (swine), vesicular stomatitis, vibrio foetus, X-disease (hyperkeratosis), or any other disease which has been or may hereafter be adjudged and proclaimed by the commissioner or the bureau of animal industry of the United States department of agriculture to be contagious, infectious or otherwise transmissible or communicable.
CHAPTER 7

(House Bill No. 8—By Mr. Casey and Mr. Campbell, of Cabell)

AN ACT authorizing and directing the state treasurer to apportion between the city of Huntington and the board of park commissioners of the city of Huntington the share of the city of Huntington in the special fund for aid to municipalities in receipts from the state liquor commission as provided under section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the disposition of receipts of the state liquor control commission in part for reimbursement of municipalities as amended by chapter seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-one.

[Passed February 22, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 1. Division of fund for aid to municipalities from receipts of state liquor control commission between city of Huntington and Huntington board of park commissioners.

Be it enacted by the Legislature of West Virginia:

Section 1. Division of Fund for Aid to Municipalities from Receipts of State Liquor Control Commission Between City of Huntington and Huntington Board of Park Commissioners.—The state treasurer in apportioning money in the special fund for aid to municipalities established under section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, shall hereafter apportion that part of said fund allocated to the city of Huntington and pay one-tenth thereof to the board of park commissioners of the city of Huntington and nine-tenths thereof to the city of Huntington: Provided, however, That no more than ten thousand dollars shall be allocated to the board of park commissioners in any one year.
CHAPTER 8

(House Bill No. 156—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section nineteen, article three, chapter sixty of the code of West Virginia, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 February 15, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 3. Sales by Commission.

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

Be it enacted by the Legislature of West Virginia:

That section nineteen, article three, chapter sixty of the code of West Virginia, as amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 dol-
lars 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. During the biennium beginning on the first day of July, one thousand nine hundred forty-nine, from receipts in excess of the above requirements, the further sum of one hundred thousand dollars, as additional temporary relief for municipalities, shall, upon requisition of the governor, be paid quarterly into the state treasury and credited to such special fund. 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 population 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 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 are paid for the
purpose of reimbursing the municipalities for their ex-
penditures 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 9
(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 12, 1949; in effect from passage.)

Title
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section
1. Finding and general 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, 1949, and during the biennium 1949-51, 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 of the state,
12 (6) Aid to public schools,
13 (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 fifty and one thousand nine hundred fifty-one. To give effect to this purpose, the board of public works shall supervise the fiscal policy, control the assumption of obligations, and regulate the expenditures of the agencies of the state, to the end that same may as nearly as practicable conform to the budget document.

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 fifty" shall mean the period from July first, one thousand nine hundred forty-nine through June thirtieth, one thousand nine hundred fifty, and the "fiscal year one thousand nine hundred fifty-one" shall mean the period from July first, one thousand nine hundred fifty through June thirtieth, one thousand nine hundred fifty-one.
"From collections" shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated "from collections" the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine.

Sec. 3. Classification of Appropriations.—An appropriation for:
1. "Personal services" shall be expended only for the payment of salaries, wages, fees, and other compensation for skill, work, or employment;
2. "Current expenses" shall be expended only for operating costs other than personal services or capital outlay;
3. "Repairs and alterations" shall include all expenditures for materials, supplies and labor used in repairing and altering buildings, grounds and equipment;
4. "Equipment" shall be expended only for things which have an appreciable and calculable period of usefulness in excess of one year;
5. "Buildings" shall include construction and alteration of structures and the improvement of lands, sewer and water improvements, and shall include shelter, support, storage, protection, or the improvement of a natural condition;
6. "Lands" shall be expended only for the purchase of land or interest in lands.

Building and/or lands and equipment appropriations are not transferable to other items of appropriation.

Unclassified appropriations shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit freedom to spend an appropriation for more than one of the above purposes.

Sec. 4. Method of Expenditure.—Money appropriated 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 5, article 5, 7 code of West Virginia.

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.

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<td>Bonded obligations</td>
<td>599</td>
<td>57</td>
</tr>
</tbody>
</table>

#### EDUCATIONAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archives and history</td>
<td>340</td>
<td>40</td>
</tr>
<tr>
<td>Bluefield state college</td>
<td>329</td>
<td>38</td>
</tr>
<tr>
<td>Concord college</td>
<td>325</td>
<td>38</td>
</tr>
<tr>
<td>Department of education (free textbooks)</td>
<td>297</td>
<td>33</td>
</tr>
<tr>
<td>Department of education (state aid to supplement the general school fund)</td>
<td>295</td>
<td>32, 67</td>
</tr>
<tr>
<td>Fairmont state college</td>
<td>321</td>
<td>37</td>
</tr>
<tr>
<td>Glenville state college</td>
<td>322</td>
<td>37</td>
</tr>
<tr>
<td>Marshall college</td>
<td>320</td>
<td>35</td>
</tr>
<tr>
<td>Shepherd college</td>
<td>324</td>
<td>37</td>
</tr>
<tr>
<td>Storer college</td>
<td>338</td>
<td>39</td>
</tr>
<tr>
<td>Teachers' retirement board</td>
<td>298</td>
<td>35</td>
</tr>
<tr>
<td>West Liberty state college</td>
<td>323</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia institute of technology</td>
<td>327</td>
<td>38</td>
</tr>
<tr>
<td>West Virginia library commission</td>
<td>350</td>
<td>40</td>
</tr>
<tr>
<td>West Virginia schools for the colored deaf and blind</td>
<td>334</td>
<td>39, 67</td>
</tr>
<tr>
<td>West Virginia schools for the deaf and blind</td>
<td>333</td>
<td>39, 67</td>
</tr>
<tr>
<td>West Virginia state college</td>
<td>328</td>
<td>38</td>
</tr>
<tr>
<td>West Virginia state college (4-H camp for colored boys and girls)</td>
<td>330</td>
<td>39</td>
</tr>
<tr>
<td>West Virginia university</td>
<td>300</td>
<td>33</td>
</tr>
<tr>
<td>West Virginia university (agricultural, etc.)</td>
<td>302</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia university (agricultural experiment station)</td>
<td>310</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia university (cooperation with Oglebay Institute)</td>
<td>304</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia university (engineering experiment station)</td>
<td>306</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia university (experiment farm–Kearneysville)</td>
<td>311</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia university (experiment farm–Reedsville)</td>
<td>314</td>
<td>38</td>
</tr>
<tr>
<td>West Virginia university (extension division)</td>
<td>305</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia university (gas and petroleum research)</td>
<td>309</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia university (Jackson's Mill)</td>
<td>303</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia university (mining, etc.)</td>
<td>301</td>
<td>33</td>
</tr>
<tr>
<td>West Virginia university (Ohio valley sub-station)</td>
<td>313</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia university (Potomac state school)</td>
<td>315</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia university (Reymann memorial farm)</td>
<td>312</td>
<td>36</td>
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</tbody>
</table>

#### EXECUTIVE

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor's office</td>
<td>120</td>
<td>25</td>
</tr>
<tr>
<td>Parole and probation investigation and supervision</td>
<td>123</td>
<td>27</td>
</tr>
</tbody>
</table>

#### CUSTODIAL SERVICE

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitol building and grounds</td>
<td>270</td>
<td>30</td>
</tr>
<tr>
<td>Central mailing office</td>
<td>280</td>
<td>30, 66</td>
</tr>
<tr>
<td>Department of purchases</td>
<td>290</td>
<td>31</td>
</tr>
</tbody>
</table>

#### FISCAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor's office</td>
<td>150</td>
<td>27</td>
</tr>
<tr>
<td>Board of control</td>
<td>190</td>
<td>28</td>
</tr>
<tr>
<td>Director of the budget</td>
<td>210</td>
<td>28</td>
</tr>
<tr>
<td>Director of the budget (inventory control)</td>
<td>211</td>
<td>28</td>
</tr>
<tr>
<td>Insurance department</td>
<td>151</td>
<td>27</td>
</tr>
<tr>
<td>Sinking fund commission</td>
<td>170</td>
<td>28</td>
</tr>
<tr>
<td>Tax commissioner</td>
<td>180</td>
<td>28</td>
</tr>
<tr>
<td>Treasurer's office</td>
<td>190</td>
<td>27</td>
</tr>
</tbody>
</table>

#### INCORPORATED AND RECORDING

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of state</td>
<td>250</td>
<td>30</td>
</tr>
</tbody>
</table>

#### LEGAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney general</td>
<td>240</td>
<td>29</td>
</tr>
<tr>
<td>Commission on uniform state laws</td>
<td>245</td>
<td>30</td>
</tr>
<tr>
<td>State court of claims</td>
<td>243</td>
<td>29</td>
</tr>
</tbody>
</table>
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4. Awards for claims against the state.
5. Capital expenditures from surplus revenues.
6. Reappropriations.
7. Special revenue appropriations.
8. Appropriations revived and extended.
9. Specific statutory appropriations.
10. Specific funds and collection accounts.
11. Appropriations for refunding erroneous payments.
14. Appropriations from taxes and license fees.
15. Appropriations to pay premiums on bonds of county clerks.
16. Appropriations to pay costs of publication of delinquent corpora-
tions.
17. Appropriations for local governments.
18. Printing costs.
19. Total appropriation.
20. General school fund.

Section 1. Appropriations from General Revenue.—From the state fund, general revenue, there is hereby appro-
piated 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 follow-
ing amounts, as itemized, for expenditures during the fiscal years one thousand nine hundred fifty and one thousand nine hundred fifty-one.

LEGISLATIVE

1—Senate
Acct. No. 101

<table>
<thead>
<tr>
<th>Fiscal Years</th>
<th>1949-50</th>
<th>1950-51</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, steno- graphic services and proof-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
10 reading $10,000.00 $8,000.00
11 To pay cost of printing 1949 and 1950 editions of Blue Book $41,500.00 $38,500.00
13 Compensation and per diem of officers and attaches $70,000.00
14 Mileage of Members $823.30
15 Current Expenses and Contingent Fund $75,000.00
19 Joint Committee on Government and Finance and other committees $25,000.00
22 The above appropriations for the fiscal year 1948-49 are to remain in full force and effect until the convening of the regular session of the Legislature, 1951.
28 The Clerk of the Senate is authorized to draw his warrants upon the Auditor, payable out of the contingent fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, and for bills for supplies and services incurred after adjournment, including expenses incurred under Senate Resolution No. 10, and for the necessary operation of his offices, the requisition for same to be accompanied by bills to be filed with the Auditor.

2—House of Delegates
Acct. No. 102
1 Salaries of Members $47,000.00 $47,000.00
Ch. 9] GENERAL APPROPRIATIONS

Fiscal Year 1948-1949

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mileage of Members</td>
<td>$2,583.80</td>
</tr>
<tr>
<td>Compensation and per diem of attaches and officers</td>
<td>$83,280.00</td>
</tr>
<tr>
<td>Contingent Fund</td>
<td>$85,000.00</td>
</tr>
<tr>
<td>Sound Amplification System</td>
<td>9,500.00</td>
</tr>
<tr>
<td>Joint Committee on Government and Finance and other Joint Committees authorized by Concurrent Resolutions</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

The above appropriations for the fiscal year 1948-49 are to remain in full force and effect until the convening of the regular session of the Legislature, 1951.

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, including the expenditures authorized by House Resolution No. 21, the requisition for same to be accompanied by bills to be filed with the Auditor.

An amount, not to exceed nine thousand five hundred dollars is hereby authorized to be expended from the contingent fund of the House of Dele-
gates for the purchase and installation of a sound amplification system for the House Chamber: Provided, That before any contract for such purchase and installation is entered into, or any expenditure therefor is made, the same shall be approved by a committee, composed of the Speaker and two members of the House, appointed by the Speaker, which appointed members shall not be of the same political party.

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 $475.00 per month, payable from the contingent fund of the House of Delegates, and the Clerk may employ a secretary at a salary of not to exceed $225.00 per month, 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.
An amount, not to exceed three thousand dollars per year, is hereby authorized to be expended from the contingent fund of the House of Delegates for janitor service, etc., for the House of Delegates. No expenditure for this purpose shall be made except on approval of the Speaker.

An amount, not to exceed five thousand dollars, is hereby authorized to be expended from the contingent fund of the House of Delegates by the House of Delegates Committee on Rules for the purpose of establishing a House of Delegates legislative drafting office, employing, if deemed advisable by the committee, in connection therewith technical and clerical assistants, who shall be available to the members and committees of the House of Delegates, at such times before and during sessions of the Legislature as may be determined by the Committee on Rules, for the purpose of assisting in the preparation and editing of bills and resolutions, and in such other legislative drafting and editing as the committee on rules may deem proper.

3—Joint Expenses
Acct. No. 103

To pay the cost of legislative
2 printing and stationery, the
3 appropriation is to be avail-
4 able for the year ending June
5 thirty, one thousand nine
6 hundred forty-nine. If this
7 work is not completed prior
8 to June thirty, one thousand
9 nine hundred forty-nine,
10 then the appropriation shall
11 continue in full until com-
12 pleted $ 97,500.00
13 Commission on Interstate Co-
14 operation $ 16,500.00

JUDICIAL
4—Supreme Court of Appeals
Acct. No. 110

1 Salaries of Judges $ 62,500.00 $ 62,500.00
2 Other Personal Services 59,600.00 59,600.00
3 Current Expenses 15,325.00 15,325.00
4 Equipment 8,000.00

5 Total $ 145,425.00 $ 137,425.00

5—Circuit Courts
Acct. No. 111

1 Salaries of Judges of the Cir-
2 cuit Courts $ 198,000.00 $ 198,000.00
3 Current Expenses 54,000.00 54,000.00

4 Total $ 252,000.00 $ 252,000.00

5A—Judges’ Retirement System
Acct. No. 112

1949-50 1950-51
$ 25,000.00 $ 25,000.00

1 To be transferred to the Judges’
2 Retirement Fund, in accord-
3 ance with the law relating
4 thereto, upon requisition of
5 the State Auditor.
6—State Law Library

Acct. No. 114

1 Personal Services, including
2 Salaries of Librarian and Assistants $8,280.00 $8,280.00
3 Current Expenses 900.00 900.00
4 Equipment 5,000.00 5,000.00

5Total $14,180.00 $14,180.00

7—The Judicial Council

Acct. No. 118

1 Personal Services $8,000.00 $8,000.00
2 Current Expenses 4,000.00 4,000.00
3 Equipment 1,000.00 500.00

4Total $13,000.00 $12,500.00

8—Auditor’s Office—Criminal Charges

Acct. No. 119

1 Criminal Charges $150,000.00 $150,000.00

9—Governor’s Office

Acct. No. 120

1 Salary of Governor $10,000.00 $10,000.00
2 Other Personal Services, including Salaries of Secretaries
3 Stereographers and Assistants $28,480.00 $28,480.00
4 Current Expenses 7,875.00 10,375.00
5 One hundred dollars annual dues to the Governor’s Conference shall be included in
6 this item.
7 Equipment 4,500.00 3,500.00
8 Civil Contingent Fund 150,000.00 150,000.00

9 Of this appropriation there may
10 be expended an amount not
to exceed $5,000.00 in each
year to provide instruction,
care and maintenance for per-
sons who are deaf and blind,
and for whom the state pro-
vides no facilities.

Out of this appropriation there
may be expended, at the dis-
cretion of the Governor, an
amount not to exceed $1,-
000.00 in each year of the bi-
nenium as West Virginia's
contribution to the Interstate
Oil Compact Commission.

Any unexpended balance re-
mainding in the Civil Conting-
ent Fund at the close of the
fiscal year 1949-50 is hereby
reappropriated for expendi-
ture during the fiscal year
1950-51.

Custodial $ 28,550.00 $ 31,350.00

To be used for current general
expenses, including compen-
sation of servants and em-
ployees, household mainte-
nance, cost of official func-
tions, and any additional
household expenses oc c a-
sioned by such official func-
tions. In the event Napoleon
Gardner, now and for many
years in the service of the
Governor and his predeces-
sors in office, shall become un-
able to perform such services
for which he may earn comp-
ensation, an amount not in
excess of $50.00 per month
may be expended out of this
appropriation by the Gov-
56 ernor at his discretion, for the
57 use and benefit of the said
58 Napoleon Gardner.

| 59 | Total | $ 229,405.00 | $ 233,705.00 |

10—Parole and Probation Investigation and Supervision

<table>
<thead>
<tr>
<th>Acct. No. 123</th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Director</td>
<td>$ 53,300.00</td>
<td>$ 53,300.00</td>
<td></td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>21,210.00</td>
<td>21,210.00</td>
<td></td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,000.00</td>
<td>1,000.00</td>
<td></td>
</tr>
<tr>
<td>5 Total</td>
<td>$ 75,510.00</td>
<td>$ 75,510.00</td>
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FISCAL

11—Auditor's Office—General Administration

<table>
<thead>
<tr>
<th>Acct. No. 150</th>
<th></th>
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<tbody>
<tr>
<td>1 Salary of State Auditor</td>
<td>$ 6,000.00</td>
<td>$ 6,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>88,140.00</td>
<td>88,140.00</td>
<td></td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>8,000.00</td>
<td>8,000.00</td>
<td></td>
</tr>
<tr>
<td>4 Equipment</td>
<td>4,000.00</td>
<td>4,000.00</td>
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</tr>
<tr>
<td>5 Total</td>
<td>$ 106,140.00</td>
<td>$ 106,140.00</td>
<td></td>
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</table>

12—Insurance Commissioner

<table>
<thead>
<tr>
<th>Acct. No. 151</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 45,000.00</td>
<td>$ 45,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>10,000.00</td>
<td>10,000.00</td>
<td></td>
</tr>
<tr>
<td>3 Equipment</td>
<td>1,000.00</td>
<td>500.00</td>
<td></td>
</tr>
<tr>
<td>4 Total</td>
<td>$ 56,000.00</td>
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13—Treasurer's Office

<table>
<thead>
<tr>
<th>Acct. No. 160</th>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Treasurer</td>
<td>$ 6,000.00</td>
<td>$ 6,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>44,000.00</td>
<td>44,000.00</td>
<td></td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>6,000.00</td>
<td>7,000.00</td>
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</tr>
<tr>
<td>4 Equipment</td>
<td>4,000.00</td>
<td>5,000.00</td>
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</tr>
<tr>
<td>5 Total</td>
<td>$ 60,000.00</td>
<td>$ 62,000.00</td>
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</table>
### 14—Sinking Fund Commission

**Acct. No. 170**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$10,800.00</td>
<td>$10,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$11,300.00</strong></td>
<td><strong>$11,300.00</strong></td>
</tr>
</tbody>
</table>

### 15—State Tax Commissioner

**Acct. No. 180**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Tax Commissioner</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$399,190.00</td>
<td>$399,190.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$149,620.00</td>
<td>$149,620.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>5 Legal and Technical Services</td>
<td>$15,980.00</td>
<td>$15,980.00</td>
</tr>
<tr>
<td>6 Property Evaluation</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$617,790.00</strong></td>
<td><strong>$588,290.00</strong></td>
</tr>
</tbody>
</table>

8 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</th>
<th>Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of the three members</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>2 of the Board of Control</td>
<td>$39,500.00</td>
<td>$39,500.00</td>
</tr>
<tr>
<td>3 Other Personal Services</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$70,000.00</strong></td>
<td><strong>$70,000.00</strong></td>
</tr>
</tbody>
</table>

### 17—Director of the Budget

**Acct. No. 210**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of</td>
<td>$59,405.00</td>
<td>$59,405.00</td>
</tr>
<tr>
<td>the Director of the Budget</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
</tbody>
</table>
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>1949-50</th>
<th>1950-51</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Equipment</td>
<td>1,250.00</td>
<td>1,250.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$67,355.00</td>
<td>$69,655.00</td>
</tr>
</tbody>
</table>

**18—Director of the Budget—Inventory Control**

**Acct. No. 211**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>1949-50</th>
<th>1950-50</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$16,920.00</td>
<td>$16,920.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>6,000.00</td>
<td>6,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$22,920.00</td>
<td>$22,920.00</td>
</tr>
</tbody>
</table>

4 To be expended in cooperation with the Director of Purchases to establish an inventory control of all physical property of the state.

**LEGAL**

**19—Attorney General**

**Acct. No. 240**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>1949-50</th>
<th>1950-50</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Attorney General</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>42,440.00</td>
<td>42,440.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>6,200.00</td>
<td>6,200.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>2,700.00</td>
<td>2,700.00</td>
</tr>
</tbody>
</table>

5 To protect the resources or tax structure of the State in controversies or legal proceedings affecting same. Any unexpended balance remaining in this fund at the close of the fiscal year 1949-50 is hereby reappropriated for expenditure during the fiscal year 1950-51.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>1949-50</th>
<th>1950-50</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>1950-51</td>
<td>8,000.00</td>
<td>8,000.00</td>
</tr>
</tbody>
</table>

15 Total                      $66,840.00 $66,840.00

**20—State Court of Claims**

**Acct. No. 243**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>1949-50</th>
<th>1950-50</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$16,950.00</td>
<td>$16,950.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>3,815.00</td>
<td>5,815.00</td>
</tr>
</tbody>
</table>
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Equipment</td>
<td>600.00</td>
<td>400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$21,365.00</strong></td>
<td><strong>$23,165.00</strong></td>
</tr>
</tbody>
</table>

#### 21—Commission on Uniform State Laws

Acct. No. 245

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td><strong>$500.00</strong></td>
<td><strong>$500.00</strong></td>
</tr>
</tbody>
</table>

#### Incorporating and Recording

**22—Secretary of State**

Acct. No. 250

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Secretary of State</td>
<td><strong>$6,000.00</strong></td>
<td><strong>$6,000.00</strong></td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td><strong>$24,980.00</strong></td>
<td><strong>$24,980.00</strong></td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td><strong>$4,000.00</strong></td>
<td><strong>$4,000.00</strong></td>
</tr>
<tr>
<td>4 Equipment</td>
<td><strong>$1,000.00</strong></td>
<td><strong>$1,000.00</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$35,980.00</strong></td>
<td><strong>$35,980.00</strong></td>
</tr>
</tbody>
</table>

#### Custodial and Service

**23—Capitol Building and Grounds**

Acct. No. 270

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td><strong>$106,350.00</strong></td>
<td><strong>$111,350.00</strong></td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td><strong>$45,000.00</strong></td>
<td><strong>$45,000.00</strong></td>
</tr>
<tr>
<td>3 Repairs and alterations</td>
<td><strong>$40,000.00</strong></td>
<td><strong>$35,000.00</strong></td>
</tr>
<tr>
<td>4 Equipment</td>
<td><strong>$3,650.00</strong></td>
<td><strong>$3,650.00</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$195,000.00</strong></td>
<td><strong>$195,000.00</strong></td>
</tr>
</tbody>
</table>

6 The above appropriation for repairs and alterations shall be expended at the discretion of the Board of Control and shall include all painting and decorating for the capitol building and the apartments therein.

#### 24—Central Mailing Office

Acct. No. 280

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td><strong>$11,040.00</strong></td>
<td><strong>$11,040.00</strong></td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td><strong>$91,940.00</strong></td>
<td><strong>$91,940.00</strong></td>
</tr>
</tbody>
</table>
3 Equipment ........................................... 3,000.00 200.00

4 Total .............................................. $105,980.00 $103,180.00

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

25—Department of Purchases

Acct. No. 290

1 Salary of Director of Pur-
2 chases ........................................... $ 6,000.00 $ 6,000.00
3 Other Personal Services .............. 57,500.00 58,280.00
4 Current Expenses ......................... 11,500.00 11,700.00
5 Equipment ........................................ 2,500.00 2,500.00

6 Total ........................................ $ 77,500.00 $ 76,480.00

EDUCATIONAL

26—Department of Education—State Aid to Schools

Acct. No. 295

1 State aid to supplement the
2 General School Fund.............. $36,825,093.00 $37,350,093.00
3 To be transferred to the gener-
4 al school fund upon the
5 requisition of the Governor.
6 To be distributed according
7 to law except an amount not
8 to exceed $50,000.00 for each
9 year of the biennium, which
10 sum shall be available to the
11 State Board of School Fi-
12 nance to aid counties in pro-
13 viding instruction for home-
14 bound crippled children un-
15 der such rules and regula-
16 tions for instruction of home-
17 bound crippled children as
18 may be adopted by the State
19 Board of Education as pro-
20 vided by chapter 18, article
21 2, section 5, of the West Vir-
22 ginia code, one thousand
23 nine hundred thirty-one, as
24 amended.
25 In making distribution of state
26 aid to counties as provided by
27 law, the state board of school
28 finance may at its discretion
29 increase the allocation to any
30 county that is otherwise un-
31 able with all available reve-
32 nues to maintain a full nine
33 months' term, such increase
34 not to be greater than is re-
35 required to provide for a nine
36 months term of school on a
37 minimum program: Provided,
38 That the total that may be
39 distributed under this special
40 provision shall not exceed
41 $100,000.00 in any year.

28—Department of Education—Textbook Aid
Acct. No. 297
1 Textbooks for Schools .................. $ 150,000.00 $ 150,000.00
2 To be distributed according to
3 chapter 51, Acts of Legislature,
4 regular session, 1939.

29—Teachers Retirement Board
Acct. No. 298
1 Benefit Fund — Payments to
2 Retired Teachers ....................... $ 916,000.00 $ 956,000.00
3 Expense Fund ............................ 35,000.00 32,000.00
4 Employer’s Accumulation Fund
5 —To match contribution of
6 members .................................... 1,800,000.00 1,800,000.00
7 Reserve fund ............................. 200,000.00 200,000.00

8 Total ........................................ $2,951,000.00 $2,988,000.00

30—West Virginia University
Acct. No. 300
1 Personal Services, including
2 Salary of President ..................... $ 3,133,475.00 $ 3,189,270.00
3 Current Expenses ...................... 558,500.00 500,000.00
4 Repairs and alterations ................ 261,500.00 259,500.00
5 Equipment ................................. 242,250.00 238,450.00
6 State aid to medical students ....... 40,000.00 40,000.00

7 Total ........................................ $4,235,725.00 $4,227,220.00

31—West Virginia University—Mining and Industrial
Extension
Acct. No. 301
1 Personal Services ....................... $ 44,640.00 $ 44,640.00
## General Appropriations

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Current Expenses</td>
<td>18,500.00</td>
<td>18,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>500.00</td>
<td>500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,400.00</td>
<td>1,000.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 65,040.00</strong></td>
<td><strong>$ 64,640.00</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 302**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 72,380.00</td>
<td>$ 72,380.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>10,800.00</td>
<td>10,800.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>1,500.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,500.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 86,180.00</strong></td>
<td><strong>$ 86,180.00</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 303**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 22,400.00</td>
<td>$ 22,400.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>14,150.00</td>
<td>14,150.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>13,500.00</td>
<td>12,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>6,600.00</td>
<td>4,600.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 56,650.00</strong></td>
<td><strong>$ 53,650.00</strong></td>
</tr>
</tbody>
</table>

34—West Virginia University—Cooperation with Oglebay Institute

**Acct. No. 304**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Unclassified—Total</td>
<td><strong>$ 3,400.00</strong></td>
<td><strong>$ 3,400.00</strong></td>
</tr>
</tbody>
</table>

35—West Virginia University—Extension Division

**Acct. No. 305**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To pay Salaries and Traveling Expenses of County Agricultural Agents</td>
<td>$ 105,060.00</td>
<td>$ 105,060.00</td>
</tr>
<tr>
<td>4 To Pay Salaries and Expenses of County Home Dem. Agts.</td>
<td>62,160.00</td>
<td>62,160.00</td>
</tr>
<tr>
<td><strong>6 Total</strong></td>
<td><strong>$ 167,220.00</strong></td>
<td><strong>$ 167,220.00</strong></td>
</tr>
</tbody>
</table>
### 36—West Virginia University—Engineering Experiment Station

**Acct. No. 306**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$19,250.00</td>
<td>$19,250.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,800.00</td>
<td>$2,800.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,050.00</strong></td>
<td><strong>$26,050.00</strong></td>
</tr>
</tbody>
</table>

### 37—West Virginia University—Gas and Petroleum Research

**Acct. No. 309**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$11,820.00</td>
<td>$11,820.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$3,200.00</td>
<td>$3,200.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$17,520.00</strong></td>
<td><strong>$15,520.00</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 310**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$100,130.00</td>
<td>$100,130.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$14,350.00</td>
<td>$14,350.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$6,150.00</td>
<td>$3,850.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$18,750.00</td>
<td>$12,250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$139,380.00</strong></td>
<td><strong>$130,580.00</strong></td>
</tr>
</tbody>
</table>

6 Out of the above appropriation for Personal Services $5,000.00 for each year of the biennium may be expended only for the employment of a Horticulturist at the Experiment Farm—Kearneysville.

### 39—West Virginia University—Experiment Farm—Kearneysville

**Acct. No. 311**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expense</td>
<td>$11,400.00</td>
<td>$11,400.00</td>
</tr>
<tr>
<td>General Appropriations</td>
<td>[Ch. 9]</td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>2 Repairs and Alterations</td>
<td>2,500.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>22,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td><strong>4 Total</strong></td>
<td><strong>$ 35,900.00</strong></td>
<td><strong>$ 22,900.00</strong></td>
</tr>
</tbody>
</table>

40—West Virginia University—Reymann Memorial Farm  
Acct. No. 312

| 1 Current Expenses | $ 10,000.00 | $ 10,000.00 |
| 2 Repairs and Alterations | 3,800.00 | 2,300.00 |
| 3 Equipment | 2,500.00 | 1,500.00 |
| **4 Total** | **$ 16,300.00** | **$ 13,800.00** |

41—West Virginia University—Ohio Valley Sub-Station  
Acct. No. 313

| 1 Current Expenses | $ 5,000.00 | $ 5,000.00 |
| 2 Repairs and Alterations | 4,000.00 | 1,000.00 |
| 3 Equipment | 900.00 | 400.00 |
| **4 Total** | **$ 9,900.00** | **$ 6,400.00** |

42—West Virginia University Experiment Farm—Reedsville  
Acct. No. 314

| 1 Current Expenses | $ 5,650.00 | $ 5,650.00 |
| 2 Repairs and Alterations | 3,400.00 | 9,000.00 |
| 3 Equipment | 5,000.00 | 5,000.00 |
| **4 Total** | **$ 14,050.00** | **$ 19,650.00** |

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

| 1 Personal Services, including |
| 2 Salary of President | $ 190,670.00 | $ 190,670.00 |
| 3 Current Expenses | $ 31,900.00 | $ 31,900.00 |
| 4 Repairs and Alterations | $ 20,400.00 | $ 20,400.00 |
| 5 Equipment | $ 16,500.00 | $ 12,000.00 |
| **6 Total** | **$ 259,470.00** | **$ 254,970.00** |

44—Marshall College  
Acct. No. 320

| 1 Personal Services, including |
### 2 Salary of President  
$1,095,790.00 \quad $1,109,200.00

### 3 Current Expenses  
93,000.00 \quad 95,000.00

### 4 Repairs and Alterations  
55,600.00 \quad 55,600.00

### 5 Equipment  
71,660.00 \quad 71,660.00

### 6 Flood Wall Assessment  
4,000.00 \quad 4,000.00

### 7 Total  
$1,320,050.00 \quad $1,335,460.00

#### 45—Fairmont State College
Acct. No. 321

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of President</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$388,590.00</td>
<td>$35,780.00</td>
<td>$24,500.00</td>
<td>$21,000.00</td>
<td>$469,870.00</td>
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### 46—Glenville State College
Acct. No. 322

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of President</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$217,210.00</td>
<td>$29,950.00</td>
<td>$18,000.00</td>
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<td>$284,510.00</td>
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</table>

### 47—West Liberty State College
Acct. No. 323

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of President</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>$179,910.00</td>
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<td>$10,500.00</td>
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<td>$224,810.00</td>
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### 48—Shepherd College
Acct. No. 324

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of President</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
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<tbody>
<tr>
<td></td>
<td>$168,000.00</td>
<td>$100,000.00</td>
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<td>Account</td>
<td>Concord College</td>
<td>West Virginia Institute of Technology</td>
<td>West Virginia State College</td>
<td>Bluefield State College</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>-----------------</td>
<td>---------------------------------------</td>
<td>----------------------------</td>
<td>------------------------</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of President</td>
<td>$333,200.00</td>
<td>$334,710.00</td>
<td>$567,045.00</td>
<td>$237,480.00</td>
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<tr>
<td>3 Current Expenses</td>
<td>$36,900.00</td>
<td>$36,900.00</td>
<td>$91,560.00</td>
<td>$241,480.00</td>
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<td>4 Repairs and Alterations</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
<td>$49,700.00</td>
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<td>5 Equipment</td>
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<td>$55,900.00</td>
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<td>6 Total</td>
<td>$425,100.00</td>
<td>$426,610.00</td>
<td>$763,555.00</td>
<td>$388,230.00</td>
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</table>

---

**GENERAL APPROPRIATIONS**

3 Current Expenses ______ 25,000.00 25,000.00
4 Repairs and Alterations ______ 15,800.00 15,800.00
5 Equipment ___________ 16,300.00 11,300.00

6 Total __________________________ $ 225,100.00 $ 220,100.00

49—Concord College

Acct. No. 325

1 Personal Services, including
2 Salary of President _____________ $ 333,200.00 $ 334,710.00
3 Current Expenses _____________ $ 36,900.00 $ 36,900.00
4 Repairs and Alterations _____________ $ 25,000.00 $ 25,000.00
5 Equipment _____________ $ 30,000.00 $ 30,000.00

6 Total _____________ $ 425,100.00 $ 426,610.00

50—West Virginia Institute of Technology

Acct. No. 327

1 Personal Services, including
2 Salary of President _____________ $ 284,630.00 $ 284,630.00
3 Current Expenses _____________ 48,600.00 48,600.00
4 Repairs and Alterations _____________ $ 20,000.00 $ 20,000.00
5 Equipment _____________ 35,000.00 35,000.00

6 Total _____________ $ 388,230.00 $ 388,230.00

51—West Virginia State College

Acct. No. 328

1 Personal Services, including
2 Salary of President _____________ $ 567,045.00 $ 567,045.00
3 Current Expenses _____________ 90,910.00 91,560.00
4 Repairs and Alterations _____________ 52,000.00 49,700.00
5 Equipment _____________ 53,600.00 55,900.00

6 Total _____________ $ 763,555.00 $ 764,205.00

52—Bluefield State College

Acct. No. 329

1 Personal Services, including
2 Salary of President _____________ $ 237,480.00 $ 241,480.00
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>53—West Virginia State College—4-H Camp for Colored Boys and Girls</th>
<th>54—West Virginia Schools for the Deaf and Blind</th>
<th>55—West Virginia School for the Colored Deaf and Blind—Storer College</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>$39,600.00</td>
<td>$4,700.00</td>
<td>1 Personal Services, including</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$24,000.00</td>
<td>$95,000.00</td>
<td>2 Salary of Superintendent</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$23,500.00</td>
<td>$19,550.00</td>
<td>3 Current Expenses</td>
</tr>
<tr>
<td>6 Total</td>
<td>$324,580.00</td>
<td>$22,410.00</td>
<td>4 Repairs and Alterations</td>
</tr>
<tr>
<td>5 Total</td>
<td>$328,580.00</td>
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</tr>
<tr>
<td>6 Total</td>
<td>$353,370.00</td>
<td>$353,370.00</td>
<td>6 Total</td>
</tr>
<tr>
<td>5 Total</td>
<td>$338,150.00</td>
<td>$338,150.00</td>
<td>6 Total</td>
</tr>
<tr>
<td>5 Total</td>
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<td>6 Total</td>
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<td>6 Total</td>
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<tr>
<td>5 Total</td>
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<td>$338,150.00</td>
<td>6 Total</td>
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<tr>
<td>5 Total</td>
<td>$338,150.00</td>
<td>$338,150.00</td>
<td>6 Total</td>
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<td>5 Total</td>
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</tr>
<tr>
<td>5 Total</td>
<td>$338,150.00</td>
<td>$338,150.00</td>
<td>6 Total</td>
</tr>
</tbody>
</table>

56—State Board of Education—Storer College  
Acct. No. 338

1 To pay Storer College for use  
2 of Plant and Facilities for
3 West Virginia Students with
4 the understanding that the
5 State Board of Education can
6 determine the need therefor...$ 20,000.00 $ 20,000.00

57—Department of Archives and History

Acct. No. 340

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$ 16,580.00</td>
</tr>
<tr>
<td>2 Salary of State Archivist and Historian</td>
<td>$ 4,315.00</td>
</tr>
<tr>
<td>3 Historian</td>
<td>$ 6,500.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$ 4,315.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$ 6,500.00</td>
</tr>
<tr>
<td>Total</td>
<td>$ 27,395.00</td>
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</tbody>
</table>

58—West Virginia Library Commission

Acct. No. 350

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 36,520.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$ 9,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$ 13,500.00</td>
</tr>
<tr>
<td>4 Books and Periodicals</td>
<td>$ 25,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$ 71,520.00</td>
</tr>
</tbody>
</table>

CHARITIES AND CORRECTION

59—West Virginia Industrial School for Boys

Acct. No. 370

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$ 126,414.00</td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$ 73,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$ 10,400.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$ 9,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$ 9,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$ 219,314.00</td>
</tr>
</tbody>
</table>

7 Subject to Judicial determination, out of the above appropriation for Personal Services, $600.00 shall be paid each year in monthly installments to each of the following persons:
14 Lelia Arnett, widow of U. G. Arnett, killed by an inmate while on duty.
17 George A. Barnard, employee, permanently disabled by an inmate while on duty.

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

1 Personal Services, including
2 Salary of Superintendent ........$ 24,000.00 $ 24,120.00
3 Current Expenses ...................... 26,130.00 26,130.00
4 Repairs and Alterations ............. 4,000.00 4,000.00
5 Equipment .............................. 8,350.00 4,900.00

6 Total .................................. $ 62,480.00 $ 59,150.00

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

1 Personal Services, including
2 Salary of Superintendent ........$ 55,590.00 $ 59,010.00
3 Current Expenses ...................... 44,830.00 44,830.00
4 Repairs and Alterations ............. 7,900.00 7,900.00
5 Equipment .............................. 12,750.00 6,750.00

6 Total .................................. $ 121,070.00 $ 118,490.00

62—West Virginia Industrial Home for Colored Girls
Acct. No. 373

1 Personal Services, including
2 Salary of Superintendent ........$ 8,036.00 $ 8,276.00
3 Current Expenses ...................... 9,475.00 9,475.00
4 Repairs and Alterations ............. 4,600.00 2,600.00
5 Equipment .............................. 2,600.00 1,400.00

6 Total .................................. $ 24,711.00 $ 21,751.00

63—West Virginia State Prison for Women
Acct. No. 374

1 Personal Services, including
2 Salary of Superintendent ........$ 23,980.00 $ 24,160.00
### GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Current Expenses</td>
<td>26,350.00</td>
<td>26,350.00</td>
</tr>
<tr>
<td>4. Repairs and Alterations</td>
<td>3,700.00</td>
<td>3,700.00</td>
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<tr>
<td>5. Equipment</td>
<td>4,700.00</td>
<td>4,000.00</td>
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<tr>
<td>6. Total</td>
<td><strong>$58,730.00</strong></td>
<td><strong>$58,210.00</strong></td>
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#### 64—West Virginia Penitentiary

<table>
<thead>
<tr>
<th>Item</th>
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<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1. Personal Services, including</td>
<td></td>
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</tr>
<tr>
<td>2. Salary of Warden</td>
<td>$251,520.00</td>
<td>$262,260.00</td>
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<tr>
<td>3. Current Expenses</td>
<td>280,450.00</td>
<td>280,450.00</td>
</tr>
<tr>
<td>4. Repairs and Alterations</td>
<td>25,000.00</td>
<td>20,000.00</td>
</tr>
<tr>
<td>5. Equipment</td>
<td>30,000.00</td>
<td>15,000.00</td>
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<tr>
<td>6. Total</td>
<td><strong>$586,970.00</strong></td>
<td><strong>$577,710.00</strong></td>
</tr>
</tbody>
</table>

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

#### 65—Medium Security Prison

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1. Personal Services</td>
<td>$75,180.00</td>
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</tr>
<tr>
<td>2. Current Expenses</td>
<td>117,800.00</td>
<td>117,800.00</td>
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<tr>
<td>3. Repairs and Alterations</td>
<td>19,500.00</td>
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</tr>
<tr>
<td>4. Equipment</td>
<td>30,500.00</td>
<td>11,000.00</td>
</tr>
<tr>
<td>5. Total</td>
<td><strong>$242,980.00</strong></td>
<td><strong>$213,480.00</strong></td>
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</table>

#### 66—West Virginia Children's Home

<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>$20,640.00</td>
<td>$22,080.00</td>
</tr>
<tr>
<td>3. Current Expenses</td>
<td>17,700.00</td>
<td>17,700.00</td>
</tr>
<tr>
<td>4. Repairs and Alterations</td>
<td>3,300.00</td>
<td>1,800.00</td>
</tr>
<tr>
<td>5. Equipment</td>
<td>3,050.00</td>
<td>1,480.00</td>
</tr>
<tr>
<td>6. Total</td>
<td><strong>$44,690.00</strong></td>
<td><strong>$43,060.00</strong></td>
</tr>
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</table>
### 67—West Virginia Colored Children's Home

Acct. No. 381

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$10,500.00</td>
<td>$10,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$6,000.00</td>
<td>$2,600.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$4,200.00</td>
<td>$1,500.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$32,700.00</strong></td>
<td><strong>$26,600.00</strong></td>
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</table>

### 68—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</td>
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<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$18,480.00</td>
<td>$18,660.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$32,400.00</td>
<td>$32,400.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$6,650.00</td>
<td>$4,650.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$65,530.00</strong></td>
<td><strong>$63,710.00</strong></td>
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### 69—West Virginia Training School

Acct. No. 383

<table>
<thead>
<tr>
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<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
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<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$65,540.00</td>
<td>$66,980.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$48,290.00</td>
<td>$48,290.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$7,950.00</td>
<td>$7,950.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$12,350.00</td>
<td>$9,350.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$134,130.00</strong></td>
<td><strong>$132,570.00</strong></td>
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### 70—Andrew S. Rowan Memorial Home

Acct. No. 384

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
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<td></td>
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<tr>
<td>2 Salary of Superintendent</td>
<td>$88,180.00</td>
<td>$93,640.00</td>
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<tr>
<td>3 Current Expenses</td>
<td>$114,225.00</td>
<td>$114,225.00</td>
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<tr>
<td>4 Repairs and Alterations</td>
<td>$10,500.00</td>
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</tr>
<tr>
<td>5 Equipment</td>
<td>$10,925.00</td>
<td>$7,900.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$223,830.00</strong></td>
<td><strong>$223,265.00</strong></td>
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</table>
## HEALTH AND WELFARE

### 71—State Health Department and Public Health Council

**Acct. No. 400**

<table>
<thead>
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<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
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</tr>
<tr>
<td>2 Salary of Commissioner</td>
<td>$534,993.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$136,149.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$40,950.00</td>
</tr>
<tr>
<td>5 Cancer Control and treatment</td>
<td>$74,902.00</td>
</tr>
<tr>
<td>6 Tuberculosis Field Clinic and</td>
<td></td>
</tr>
<tr>
<td>7 Nursing Service—To be expended in cooperation with</td>
<td></td>
</tr>
<tr>
<td>8 West Virginia Tuberculosis and Health Association</td>
<td>$10,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$796,994.00</strong></td>
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### 72—State Water Commission

**Acct. No. 401**

<table>
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<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td></td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$26,780.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$15,750.00</td>
</tr>
<tr>
<td>4 For cooperation with the U. S. Geological Survey for</td>
<td></td>
</tr>
<tr>
<td>5 program of stream gauging</td>
<td>$4,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$54,630.00</strong></td>
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### 73—State Committee of Barbers and Beauticians

**Acct. No. 402**

<table>
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<tbody>
<tr>
<td>1 Personal Services, including</td>
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</tr>
<tr>
<td>2 Salary of Director</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>4 Total</td>
<td>$33,000.00</td>
</tr>
<tr>
<td>5 From Collections</td>
<td>$33,000.00</td>
</tr>
</tbody>
</table>

### 74—Bureau of Negro Welfare and Statistics

**Acct. No. 403**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Director</td>
<td>$3,600.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$8,720.00</td>
</tr>
</tbody>
</table>
### Ch. 9] GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>4,070.00</td>
<td>5,070.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>275.00</td>
<td>275.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$16,665.00</td>
<td>$17,665.00</td>
</tr>
</tbody>
</table>

75—West Virginia Department of Veterans Affairs
Acct. No. 404

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</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 Director</td>
<td>$132,237.00</td>
<td>$134,237.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>43,445.00</td>
<td>43,445.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>5</td>
<td>To provide Educational Opportunities for Children of War Veterans as provided by Chapter 39, Acts of the Legislature, 1943</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td>$182,682.00</td>
<td>$184,682.00</td>
</tr>
</tbody>
</table>

76—Department of Public Assistance
Acct. No. 405

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$877,240.00</td>
<td>$926,800.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>209,000.00</td>
<td>196,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>17,500.00</td>
<td>11,400.00</td>
</tr>
<tr>
<td>4</td>
<td>Public Assistance Grants (Classified Aid)</td>
<td>5,700,000.00</td>
<td>5,700,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Aid to Crippled Children</td>
<td>350,845.00</td>
<td>350,845.00</td>
</tr>
<tr>
<td>7</td>
<td>General Medical and Hospitalization</td>
<td>665,400.00</td>
<td>665,400.00</td>
</tr>
<tr>
<td>9</td>
<td>Conservation of Vision and Prevention of Blindness</td>
<td>20,000.00</td>
<td>20,000.00</td>
</tr>
<tr>
<td>11</td>
<td>Child Welfare Services</td>
<td>65,000.00</td>
<td>65,000.00</td>
</tr>
<tr>
<td>12</td>
<td>General Relief</td>
<td>710,000.00</td>
<td>710,000.00</td>
</tr>
<tr>
<td>13</td>
<td>Boarding Care</td>
<td>420,000.00</td>
<td>420,000.00</td>
</tr>
<tr>
<td>14</td>
<td>Total</td>
<td>$9,034,985.00</td>
<td>$9,065,445.00</td>
</tr>
</tbody>
</table>

The unexpended balance, if any, remaining in the appropriation for this department as of June 30, 1949 is hereby reappropriated for expendi-
20 ture in the fiscal years 1949-50 and 1950-51.

77—Weston State Hospital
Acct. No. 420

<table>
<thead>
<tr>
<th>Item</th>
<th>1949-50</th>
<th>1950-51</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$589,760.00</td>
<td>$634,740.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>397,900.00</td>
<td>397,900.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>20,000.00</td>
<td>20,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,032,660.00</strong></td>
<td><strong>$1,077,640.00</strong></td>
</tr>
</tbody>
</table>

78—Spencer State Hospital
Acct. No. 421

<table>
<thead>
<tr>
<th>Item</th>
<th>1949-50</th>
<th>1950-51</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$187,600.00</td>
<td>$203,860.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>202,575.00</td>
<td>202,575.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>15,100.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>9,600.00</td>
<td>7,900.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$414,875.00</strong></td>
<td><strong>$424,435.00</strong></td>
</tr>
</tbody>
</table>

79—Huntington State Hospital
Acct. No. 422

<table>
<thead>
<tr>
<th>Item</th>
<th>1949-50</th>
<th>1950-51</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$280,860.00</td>
<td>$300,120.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>300,000.00</td>
<td>300,000.00</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>
<td>12,000.00</td>
<td>12,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$607,860.00</strong></td>
<td><strong>$627,120.00</strong></td>
</tr>
</tbody>
</table>

All revenue collected by the above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund—General Revenue.
above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund — General Revenue.

80—Lakin State Hospital  
Acct. No. 423

1 Personal Services, including Salary of Superintendent ...... $ 96,555.00 $ 104,715.00  
2 Current Expenses ........................................... 93,400.00 93,400.00  
3 Repairs and Alterations ........................................ 16,800.00 15,300.00  
4 Equipment ........................................... 12,300.00 11,800.00  

5 Total ........................................... $ 219,055.00 $ 225,215.00

81—Barboursville State Hospital  
Acct. No. 424

1 Personal Services, including Salary of Superintendent ...... $ 82,480.00 $ 92,320.00  
2 Current Expenses ........................................... 110,500.00 110,200.00  
3 Repairs and Alterations ........................................ 6,900.00 6,000.00  
4 Equipment ........................................... 7,050.00 10,300.00  

5 Total ........................................... $ 206,930.00 $ 218,820.00

82—Fairmont Emergency Hospital  
Acct. No. 425

1 Personal Services, including Salary of Superintendent ...... $ 84,380.00 $ 84,380.00  
2 Current Expenses ........................................... 61,160.00 61,160.00  
3 Repairs and Alterations ........................................ 9,000.00 9,000.00  
4 Equipment ........................................... 6,200.00 6,200.00  

5 Total ........................................... $ 160,740.00 $ 160,740.00

83—Welch Emergency Hospital  
Acct. No. 426

1 Personal Services, including Salary of Superintendent ...... $ 78,200.00 $ 78,200.00
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Hopemont Sanitarium</th>
<th>Pinecrest Sanitarium</th>
<th>Berkeley Springs Sanitarium</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>119,350.00</td>
<td>221,100.00</td>
<td>78,880.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>8,000.00</td>
<td>20,500.00</td>
<td>7,900.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>4,000.00</td>
<td>15,900.00</td>
<td>8,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>220,050.00</strong></td>
<td><strong>209,550.00</strong></td>
<td><strong>178,346.00</strong></td>
</tr>
</tbody>
</table>

#### Hopemont Sanitarium

Acct. No. 430

1 Personal Services, including Salary of Superintendent $284,670.00
2 Current Expenses $221,100.00
3 Repairs and Alterations $20,500.00
4 Equipment $15,900.00
5 **Total** $542,170.00

#### Pinecrest Sanitarium

Acct. No. 431

1 Personal Services, including Salary of Superintendent $464,460.00
2 Current Expenses $409,575.00
3 Repairs and Alterations $24,500.00
4 Equipment $15,400.00
5 **Total** $913,935.00

#### Denmar Sanitarium

Acct. No. 432

1 Personal Services, including Salary of Superintendent $82,780.00
2 Current Expenses $79,666.00
3 Repairs and Alterations $7,900.00
4 Equipment $8,000.00
5 **Total** $178,346.00

#### Berkeley Springs Sanitarium

Acct. No. 436

1 Personal Services, Including Salary of Superintendent $25,350.00
2 **Total** $25,350.00
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5,305.00</td>
<td>1,500.00</td>
<td>1,750.00</td>
</tr>
<tr>
<td>Total</td>
<td>23,615.00</td>
<td>$ 35,705.00</td>
<td></td>
</tr>
</tbody>
</table>

#### Business and Industrial Relations

##### 89—Bureau of Labor and Department of Weights and Measures

<table>
<thead>
<tr>
<th>Acct. No. 450</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
</tr>
<tr>
<td>2 Personal Services</td>
</tr>
<tr>
<td>3 Current Expenses</td>
</tr>
<tr>
<td>4 Equipment</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

##### 90—Department of Mines

<table>
<thead>
<tr>
<th>Acct. No. 460</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Chief</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
</tr>
<tr>
<td>3 Current Expenses</td>
</tr>
<tr>
<td>4 Equipment</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

##### 91—Commission on Interstate Cooperation

<table>
<thead>
<tr>
<th>Acct. No. 472</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
</tr>
</tbody>
</table>

2 Out of the above appropriation the sum of $6,000.00 may be made available for West Virginia's membership in the Council of State Governments.

##### 92—Interstate Commission on Potomac River Basin

<table>
<thead>
<tr>
<th>Acct. No. 473</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 West Virginia's contribution to Potomac River Basin Inter-</td>
</tr>
<tr>
<td>Account</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

**Ohio River Valley Water Sanitation Commission**

Acct. No. 474

1. West Virginia's contribution to the Ohio River Valley Water Sanitation Commission
2. Ohio River Valley Water Sanitation Commission

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$12,250.00</td>
<td>$12,250.00</td>
</tr>
</tbody>
</table>

**Department of Banking**

Acct. No. 480

1. Salary of Commissioner
2. Other Personal Services
3. Current Expenses
4. Equipment

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$38,940.00</td>
<td>$38,940.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$19,860.00</td>
<td>$20,860.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,375.00</td>
<td>$875.00</td>
</tr>
</tbody>
</table>

5. Total

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$66,175.00</td>
<td>$66,675.00</td>
</tr>
</tbody>
</table>

**Board of Aeronautics**

Acct. No. 485

1. Personal Services
2. Current Expenses
3. Equipment
4. Airport Development
5. Repairs to Airplane

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$14,160.00</td>
<td>$14,160.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$10,100.00</td>
<td>$8,550.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,500.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$2,500.00</td>
<td></td>
</tr>
</tbody>
</table>

6. Total

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$33,260.00</td>
<td>$28,710.00</td>
</tr>
</tbody>
</table>

**West Virginia Industrial and Publicity Commission**

Acct. No. 486

1. Personal Services
2. Current Expenses
3. Equipment

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$23,000.00</td>
<td>$23,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$42,000.00</td>
<td>$42,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

4. Total

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$66,000.00</td>
<td>$66,000.00</td>
</tr>
</tbody>
</table>

**West Virginia Non-Intoxicating Beer Commission**

Acct. No. 490

1. Personal Services
2. Current Expenses

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$89,400.00</td>
<td>$89,400.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$66,570.00</td>
<td>$66,570.00</td>
</tr>
</tbody>
</table>
### Ch. 9: General Appropriations

#### 3 Equipment

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td></td>
<td>1,000.00</td>
</tr>
</tbody>
</table>

#### 4 Total

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td></td>
<td>156,970.00</td>
</tr>
</tbody>
</table>

#### 98—West Virginia Racing Commission

Acct. No. 495

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To pay per diem of members and other general expenses</td>
<td>$33,000.00</td>
</tr>
</tbody>
</table>

### AGRICULTURE

#### 99—Department of Agriculture

Acct. No. 510

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>110,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>65,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>10,000.00</td>
</tr>
</tbody>
</table>

5 For the Eradication and Prevention of Livestock Diseases

6 —To be expended at the discretion of the Commissioner of Agriculture

9 of Agriculture

10 Aid to Dairy Development Program

11 Eradication and Control of Japanese beetle and other plant pests

14

15 Total

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td></td>
<td>382,645.00</td>
</tr>
</tbody>
</table>

#### 100—Department of Agriculture—Soil Conservation Committee

Acct. No. 512

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To pay per diem and travel expenses of District Supervisors and Other General Expenses of the Soil Conservation Committee</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>

#### 101—Department of Agriculture—Marketing and Research

Acct. No. 513

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>For cooperation with the Fed-</td>
<td></td>
</tr>
</tbody>
</table>
2 General Government in a program of marketing and research $50,000.00 $50,000.00

5 Any part or all of this appropriation may be transferred to Special Revenue Fund for the purpose of matching federal funds for the above named purpose.

102—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 $12,500.00 $12,500.00

5 State Agricultural Fairs and Agricultural and Industrial Exhibits $25,000.00 25,000.00

8 West Virginia State Fair $25,000.00 25,000.00

9 Mountain State Forest Festival $7,500.00 7,500.00

10 Total $70,000.00 70,000.00

11 To be expended at the discretion of the Commissioner of Agriculture and in accordance with law.

CONSERVATION AND DEVELOPMENT

103—West Virginia Geological Survey

Acct. No. 520

1 Personal Services, including Salary of State Geologist $64,980.00 $64,080.00

3 Current Expenses $21,365.00 21,365.00

4 Equipment $6,900.00 1,900.00

5 Total $93,245.00 87,345.00

6 Of the above appropriation for Current Expenses not more than $5,000.00 may be used
9 each year of the biennium to
10 cooperate with the United
11 States Geological Survey in
12 Ground Waters Resources
13 Study.

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

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>521</td>
<td>Personal Services</td>
<td>$283,800.00</td>
</tr>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$26,700.00</td>
</tr>
<tr>
<td></td>
<td>White Pine Blister Rust Control</td>
<td>$2,500.00</td>
</tr>
<tr>
<td></td>
<td>To Match Pittman-Robertson</td>
<td>$100,000.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$413,000.00</td>
</tr>
</tbody>
</table>

105—Conservation Commission—Division of State Parks

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>522</td>
<td>Personal Services</td>
<td>$59,840.00</td>
</tr>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$75,000.00</td>
</tr>
<tr>
<td></td>
<td>Repairs and Alterations</td>
<td>$10,000.00</td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$7,360.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$152,200.00</td>
</tr>
</tbody>
</table>

106—Conservation Commission—Clarke-McNary

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>523</td>
<td>For cooperation with the</td>
<td>$75,000.00</td>
</tr>
<tr>
<td></td>
<td>United States Department of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Agriculture in Fire Prevention and Control</td>
<td>$75,000.00</td>
</tr>
</tbody>
</table>

107—Point Pleasant Battle Monument Commission

<table>
<thead>
<tr>
<th>Acct. No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>561</td>
<td>For Maintenance of Historical</td>
<td>$3,900.00</td>
</tr>
<tr>
<td></td>
<td>Monument</td>
<td>$3,200.00</td>
</tr>
</tbody>
</table>
108—Rumseyan Society
   Acct. No. 562
1 For Maintenance of Historical Monument $ 250.00 $ 250.00

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

110—Grafton G. A. R. Post
   Acct. No. 564
1 In aid of Memorial Day Patriotic Exercises $ 1,500.00 $ 1,500.00
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
111—Department of Public Safety
   Acct. No. 570
1 Salary of Superintendent $ 6,000.00 $ 6,000.00
2 Other Personal Services 650,335.00 656,335.00
3 Current Expenses 486,909.00 480,732.00
4 Repairs and Alterations 20,050.00 20,050.00
5 Equipment 63,520.00 51,510.00
6 Total $ 1,226,814.00 $ 1,214,627.00

112—Adjutant General—State Militia
   Acct. No. 580
1 Salary of Adjutant General $ 6,000.00 $ 6,000.00
2 Other Personal Services 41,400.00 41,400.00
3 Current Expenses 136,970.00 138,870.00
### Ch. 9] GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>1st Year</th>
<th>2nd Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Repairs and Alterations</td>
<td>6,800.00</td>
<td>6,800.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>4,500.00</td>
<td>3,300.00</td>
</tr>
<tr>
<td>6 Compensation of Commanding Officers, Clerical Services and Care of Property</td>
<td>59,635.00</td>
<td>64,635.00</td>
</tr>
<tr>
<td>9 Total</td>
<td>255,305.00</td>
<td>261,005.00</td>
</tr>
</tbody>
</table>

#### 113—State Board of Education—Insurance

**Acct. No. 584**

<table>
<thead>
<tr>
<th>Item</th>
<th>1st Year</th>
<th>2nd Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Fire Insurance Premiums</td>
<td>50,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Boiler Insurance Premiums</td>
<td></td>
<td>5,000.00</td>
</tr>
<tr>
<td>3 Total</td>
<td>50,000.00</td>
<td>5,000.00</td>
</tr>
</tbody>
</table>

4 To pay insurance premiums on buildings and contents and boilers of state colleges.
7 The above appropriation for premiums is for a three-year period.

#### 114—West Virginia Board of Control—Insurance

**Acct. No. 585**

<table>
<thead>
<tr>
<th>Item</th>
<th>1st Year</th>
<th>2nd Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Fire Insurance Premiums</td>
<td>100,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Boiler Insurance Premiums</td>
<td></td>
<td>5,000.00</td>
</tr>
<tr>
<td>3 Total</td>
<td>100,000.00</td>
<td>5,000.00</td>
</tr>
</tbody>
</table>

4 To pay insurance premiums on buildings and contents and boilers of state institutions.
7 The above appropriation for premiums is for a three-year period.

#### 115—State Board of Examiners of Accountants

**Acct. No. 586**

<table>
<thead>
<tr>
<th>Item</th>
<th>1st Year</th>
<th>2nd Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To pay the per diem of members and other general expenses</td>
<td>900.00</td>
<td>900.00</td>
</tr>
<tr>
<td>4 From collections</td>
<td>900.00</td>
<td>900.00</td>
</tr>
</tbody>
</table>
115-a—State Athletic Commission
Acct. No. 587
1 To pay per diem of members   $3,500.00 $3,500.00
2 and other general expenses   3,500.00
3 From Collections  3,500.00

116—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  $15,000.00 $15,000.00
4 From Collections  15,000.00

117—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

118—State Board of Pharmacy
Acct. No. 590
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses  $5,000.00 $5,000.00
4 From Collections  5,000.00

119—State Board of Osteopathy
Acct. No. 591
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses  $900.00 $900.00
4 From Collections  900.00

120—State Board of Optometry
Acct. No. 592
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses  $2,000.00 $2,000.00
4 From Collections .......................... 2,000.00 2,000.00

121—State Board of Embalmers and Funeral Directors
Acct. No. 593
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses .......................................................... $ 9,000.00 $ 9,000.00
4 From Collections ........................................... 9,000.00 9,000.00

122—State Board of Registration for Professional
Engineers
Acct. No. 594
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses .......................................................... $ 8,025.00 $ 8,650.00
4 From Collections ........................................... 8,025.00 8,650.00

123—State Board of Examiners for Architects
Acct. No. 595
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses .......................................................... $ 2,000.00 $ 2,000.00
4 From Collections ........................................... 2,000.00 2,000.00

124—State Board of Examiners for Veterinarians
Acct. No. 596
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses .......................................................... $ 500.00 $ 500.00
4 From Collections ........................................... 500.00 500.00

125—State Board of Law Examiners
Acct. No. 597
1 To pay the per diem of mem-
2 bers and other general ex-
3 penses .......................................................... $ 2,400.00 $ 2,400.00

126—Treasurer’s Office—Bonded Obligations
Acct. No. 599
1 To pay the principal and inter-
2 est requirements of refund-
ing bonds authorized under
4 Chapter 58 of the First Ex-
5 traordinary Session of the
6 1933 Legislature to pay non-
7 bonded debts existing at the
time of the adoption of the
tax limitation amendment ..... $ 290,000.00 $ 280,000.00

Sec. 2. Appropriations from Other Funds.—From the
2 funds designated there is hereby appropriated condition-
3 ally upon the fulfillment of the provisions set forth in
4 chapter thirty-nine, acts of the Legislature, regular session,
5 one thousand nine hundred thirty-nine, the following
6 amounts, as itemized, for expenditure during the fiscal
7 years one thousand nine hundred fifty and one thousand
8 nine hundred fifty-one.

127—Department of Agriculture

Acct. Nos. 654 and 655

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>$ 73,280.00</td>
</tr>
<tr>
<td>2 Current Expenses and Equip-</td>
<td>$ 41,680.00</td>
</tr>
<tr>
<td>ment</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 114,960.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appro-
6 priation shall be paid from
7 Special Revenue Fund out of
8 collections made by the De-
9 partment of Agriculture as
10 provided by law.

128—Insurance Commissioner—Fire Marshal

Acct. No. 660

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>$ 39,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$ 26,815.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$ 5,200.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 71,615.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appro-
6 appropriation shall be paid from
7 Special Revenue Fund out of
8 collections of the special tax
9 of one-half of one per cent of
10 premium receipts of fire in-
11 surance companies as pro-
12 vided by law.

129—Public Service Commission

Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
<td></td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$167,300.00</td>
<td>$167,300.00</td>
<td></td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$39,700.00</td>
<td>$39,700.00</td>
<td></td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$230,000.00</strong></td>
<td><strong>$230,000.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

6 The total amount of this appro-
7 priation shall be paid from
8 Special Revenue Fund out of
9 collections for special license
10 fees from public service cor-
11 porations as provided by law.
12 Out of the above appropriation
13 $5,000.00 may be transferred
14 annually to the State Water
15 Commission for use in coop-
16 eration with the U. S. Geo-
17 logical Survey in a program
18 of stream gauging.

130—Public Service Commission—Motor Carrier Division

Acct. No. 662

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$176,170.00</td>
<td>$176,170.00</td>
<td></td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$32,000.00</td>
<td>$32,000.00</td>
<td></td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$213,170.00</strong></td>
<td><strong>$213,170.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

5 The total amount of this appro-
6 appropriation shall be paid from
7 Special Revenue Fund out of
8 receipts collected for or by
9 the Public Service Commis-
10 sion pursuant to and in the
11 exercise of regulatory author-
12 ity over motor carriers as au-
13 thorized by law.

131—Conservation Commission—General Administration

Acct. No. 663

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Director</td>
<td>6,000.00</td>
<td>6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>36,600.00</td>
<td>36,600.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>40,000.00</td>
<td>42,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>85,600.00</strong></td>
<td><strong>88,600.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appro-
7 priation shall be paid from
8 special revenue fees col-
9 lected by the conservation
10 commission.
11 All items are for administra-
12 tion purposes only and shall
13 not be construed as a limit
14 upon the expenditures from
15 the Special Revenue collec-
16 tions of said department, ex-
17 cept for administration. In
18 addition to the above appro-
19 priation the sum of $5,000.00
20 may be transferred annually
21 from the special revenue col-
22 lections of said department
23 to the state water commis-
24 sion for use in cooperation
25 with the U. S. Geological
26 Survey in a program of
27 stream gauging.
132—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>$385,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$40,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$443,000.00</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 amount to pay salaries of store personnel, store inspectors, store operating expenses, purchase of liquor and transportation thereof, and purchase of administration equipment: 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
36 state liquor control com-
37 mission shall, by proper min-
38 ute order, file with the direc-
39 tor of the Budget, on July 1,
40 1949, an exact schedule of all
41 encumbrances against the
42 liquor revenues as of that
date, and shall thereafter
43 submit to the director of the
44 Budget for approval all pay-
45 rolls, requisitions for pur-
46 chases, contracts and other
47 prospective encumbrances:
48 Provided further, That it is
49 the intent of this Legislature
50 that in the preparation of the
51 budget document for the
52 1951-53 biennium that all sal-
53 aries of store personnel, store
54 operating expense and equip-
55 ment, shall be included in this
56 appropriation.

133—State Road Commission—General Administration
and Engineering
Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>373,280.00</td>
<td>373,280.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>90,000.00</td>
<td>90,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>30,000.00</td>
<td>30,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$501,280.00</td>
<td>$501,280.00</td>
</tr>
</tbody>
</table>

6 In addition to the foregoing app-
7 propriations or claims, as au-
8 thorized by this act or by law
9 to be paid from the state road
10 fund, the balance or residue
11 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 blanket appropriations in lines 6 to 22, 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, 1949, 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 director of the budget shall have the right to allocate expenditures under prospective encumbrances.
### 134—Department of Motor Vehicles

**Acct. No. 671**

**TO BE PAID FROM STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$325,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$120,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td><strong>$471,000.00</strong></td>
</tr>
</tbody>
</table>

### 135—State Board of Education

**Acct. No. 700**

**TO BE PAID FROM THE GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$21,620.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$15,150.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$700.00</td>
</tr>
<tr>
<td>4</td>
<td>Out-of-State aid to Negroes</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td><strong>$47,470.00</strong></td>
</tr>
</tbody>
</table>

### 136—State Board of Education—Vocational Division

**Acct. No. 701**

**TO BE PAID FROM THE GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$23,265.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$9,930.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$500.00</td>
</tr>
<tr>
<td>4</td>
<td>Vocational Aid</td>
<td>$200,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Plans and surveys for a State Camp and Conference Center for Future Farmers of America—Future Homemakers of America</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td><strong>$238,695.00</strong></td>
</tr>
</tbody>
</table>

### 137—State Board of Education—Rehabilitation Division

**Acct. No. 702**

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Vocational Rehabilitation Services</td>
<td>$200,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Services</td>
<td>$200,000.00</td>
</tr>
</tbody>
</table>

---

*Note: The amounts are in thousands of dollars.*
### 138—Department of Education

Acct. No. 703

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Superintendent</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$110,000.00</td>
<td>$110,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$55,000.00</td>
<td>$55,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5 Salaries of County Superintendents</td>
<td>$60,000.00</td>
<td>$60,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$233,000.00</strong></td>
<td><strong>$233,000.00</strong></td>
</tr>
</tbody>
</table>

### 139—State Board of School Finance

Acct. No. 704

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,100.00</td>
<td>$12,100.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$17,100.00</strong></td>
<td><strong>$17,100.00</strong></td>
</tr>
</tbody>
</table>

### 140—Department of Education—Hot Lunches

Acct. No. 705

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$37,500.00</td>
<td>$37,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$11,720.00</td>
<td>$11,720.00</td>
</tr>
<tr>
<td>3 Aid to Counties—Includes hot lunches and canning for hot</td>
<td>$100,000.00</td>
<td>$100,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$149,220.00</strong></td>
<td><strong>$149,220.00</strong></td>
</tr>
</tbody>
</table>

### 141—Auditor’s Office—Land Department

Acct. No. 709

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$60,000.00</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount 1</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>1,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$62,500.00</td>
</tr>
</tbody>
</table>

142—Workmen’s Compensation Commission  
Acct. No. 900  
TO BE PAID FROM WORKMEN’S COMPENSATION FUND  

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>463,120.00</td>
<td>463,120.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>203,875.00</td>
<td>200,875.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>40,000.00</td>
<td>22,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$712,995.00</td>
<td>$691,995.00</td>
</tr>
</tbody>
</table>

6 There is hereby authorized to be paid out of the above appropriation for Current Expenses the amount necessary for the premiums on bonds given by the State Treasurer and bond custodian for the protection of the Workmen’s Compensation Fund.

Sec. 3. Supplemental Appropriations.—From the State Fund, General Revenue, except as otherwise provided, there is hereby appropriated the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred and forty-nine to supplement the 1948-49 appropriations, and to be available for expenditure upon date of passage.

143—Circuit Courts  
Acct. No. 111  

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>$23,000.00</td>
</tr>
</tbody>
</table>

144—Auditor’s Office—Criminal Charges  
Acct. No. 119  

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Criminal Charges</td>
<td>$55,000.00</td>
</tr>
</tbody>
</table>

145—Central Mailing Office  
Acct. No. 280  

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>$26,000.00</td>
</tr>
</tbody>
</table>
146—Department of Education

Acct. No. 295

1 State Aid to supplement the
2 General School Fund to be
3 distributed on a formula to
4 be determined by the State
5 Board of School Finance to
6 assist counties in maintaining
7 a term of nine months $ 205,000.00
8 Out of this appropriation the
9 sum of $5,000.00 shall be
10 available to the State Board
11 of School Finance to aid
12 counties in providing instruc-
13 tion for Home-bound Crip-
14 pled Children.

146-a—West Virginia Schools for the Deaf and Blind

Acct. No. 333

1 Current Expenses $ 10,000.00

147—West Virginia Industrial Home for Girls

Acct. No. 372

1 Current Expenses $ 5,000.00

148—West Virginia Penitentiary

Acct. No. 375

1 Current Expenses $ 35,000.00

149—Medium Security Prison

Acct. No. 376

1 Current Expenses $ 10,000.00

150—Andrew S. Rowan Memorial Home

Acct. No. 384

1 Current Expenses $ 10,000.00

151—West Virginia Department of Veterans Affairs

Acct. No. 404

1 Personal Services $ 1,815.00
152—Huntington State Hospital
Acct. No. 422
1 Current Expenses $ 20,000.00
2 Equipment 20,000.00
3 Total $ 40,000.00

153—Welch Emergency Hospital
Acct. No. 426
1 Current Expenses $ 18,000.00
2 Repairs and Alterations 3,000.00
3 Total $ 21,000.00

153-a—West Virginia Board of Control—West Virginia Foundation for Crippled Children—“Pines”
Acct. No. 433
1 To be used for paying for work done under former contract and for the completion of repairs and improvements authorized by former contract $ 3,161.27

154—Department of Mines
Acct. No. 460
1 Personal Services $ 27,800.00
2 Current Expenses 12,200.00
3 Total $ 40,000.00

155—Ohio River Valley Water Sanitation Commission
Acct. No. 474
1 West Virginia’s contribution to the Ohio River Valley Water Sanitation Commission $ 2,450.00

156—West Virginia Racing Commission
Acct. No. 495
1 To pay per diem of Members $ 5,000.00
156-a—Public Service Commission
Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

1 To pay per diem and expenses of special Investigators in utility rate cases $ 30,000.00
4 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1948-49 is hereby reappropriated for expenditure during the 1949-51 biennium.

157—State Board of Education
Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1 Out-of-State Aid to Negroes $ 1,000.00

158—Department of Education
Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 Other Personal Services $ 7,077.00
2 Current Expenses 30,000.00
3 Total $ 37,077.00

159—Department of Education—Hot Lunches
Acct. No. 705

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 Personal Services $ 7,988.00
2 Current Expenses 1,600.00
3 Total $ 9,588.00

160—Workmen's Compensation—Deficiency Appropriation
Acct. No. 900

1 Current Expense 1948-49 $ 43,750.00

Section 4. Awards for Claims Against the State.—Appropriations to pay awards for claims against the State as ap-
3 proved and certified by the State Court of Claims are for
4 the remainder of the fiscal year 1948-49, and to remain in
5 effect until June 30, 1951.

**Claims Versus State Auditor**
*Corporation Department*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Crescent Brick Company .......... $ 333.40

**Claim Versus State Auditor**
*Criminal Claims Department*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Daugherty, Duncan W. ............. $ 615.00

**Claim Versus State Board of Control**
*West Virginia Industrial School for Boys*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Musgrove Wholesale Grocery ........ $ 151.66

**Claims Versus State Board of Education**
*West Virginia State College*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Brodhead-Garrett Company ......... $ 69.86
2 Galperin Music Company .......... 27.95
3 Robinson, Robert Ray, infant, by Bob Robinson.......... 2,000.00
5 Webb, Lena J.......................... 35.00

**Claim Versus State Board of Education**
*West Virginia Institute of Technology*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Charleston Electrical Supply 300.00

**Claim Versus State Department of Motor Vehicles**

**TO BE PAID FROM STATE ROAD FUND**

1 Elite Laundry Company............. $ 52.50
Claim Versus Probation and Parole Department
TO BE PAID FROM GENERAL REVENUE FUND

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coole, J. W.</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

Claims Versus State Department of Unemployment Compensation
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Company</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffalo-Winifrede Coal Company</td>
<td>$52.05</td>
</tr>
<tr>
<td>Utilities Coal Company, a corpor-</td>
<td>240.62</td>
</tr>
</tbody>
</table>

Claims Versus State Road Commission
TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bailey, Clark.</td>
<td>$50.00</td>
</tr>
<tr>
<td>Breedlove, John H.</td>
<td>210.73</td>
</tr>
<tr>
<td>Brown, Sarah Ann</td>
<td>500.00</td>
</tr>
<tr>
<td>Cabell, Hewitt L.</td>
<td>226.07</td>
</tr>
<tr>
<td>Catron, S. P.</td>
<td>1,250.00</td>
</tr>
<tr>
<td>Clark, Maud</td>
<td>500.00</td>
</tr>
<tr>
<td>Cochran, Zackwell</td>
<td>40.00</td>
</tr>
<tr>
<td>Eureka Pipe Line Co.</td>
<td>367.42</td>
</tr>
<tr>
<td>Eureka Pipe Line Co.</td>
<td>209.31</td>
</tr>
<tr>
<td>Farley, Alex</td>
<td>100.00</td>
</tr>
<tr>
<td>Hendrickson, Jack and Martha</td>
<td>22.15</td>
</tr>
<tr>
<td>Jackson, Dee</td>
<td>100.00</td>
</tr>
<tr>
<td>Jordan, W. B.</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Jordan, Lena</td>
<td>250.00</td>
</tr>
<tr>
<td>Jordan, Betty Lou</td>
<td>250.00</td>
</tr>
<tr>
<td>Jordan, W. B., Jr.</td>
<td>250.00</td>
</tr>
<tr>
<td>Knisley, Wm. M.</td>
<td>17.50</td>
</tr>
<tr>
<td>Leonard, Clifford</td>
<td>56.62</td>
</tr>
<tr>
<td>Light, Sibyl C.</td>
<td>540.00</td>
</tr>
<tr>
<td>Lowe, R. B.</td>
<td>217.67</td>
</tr>
<tr>
<td>Lycans, Grace</td>
<td>374.49</td>
</tr>
<tr>
<td>Moore, Lucille H.</td>
<td>239.62</td>
</tr>
<tr>
<td>McClung, Alice E.</td>
<td>1,440.00</td>
</tr>
<tr>
<td>McGrady, Sim</td>
<td>38.00</td>
</tr>
<tr>
<td>Presson, Katherine</td>
<td>100.00</td>
</tr>
<tr>
<td>Price, A. S.</td>
<td>300.00</td>
</tr>
<tr>
<td>Name</td>
<td>Amount</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Saunders, Thomas</td>
<td>300.00</td>
</tr>
<tr>
<td>Short, Nellie O.</td>
<td>43.90</td>
</tr>
<tr>
<td>Sidell, A. R., M. D.</td>
<td>19.81</td>
</tr>
<tr>
<td>Slayton, George</td>
<td>25.00</td>
</tr>
<tr>
<td>Starcher, Zora, Bessie</td>
<td></td>
</tr>
<tr>
<td>31 Starcher, Nora Starcher</td>
<td></td>
</tr>
<tr>
<td>Rexroad</td>
<td>150.00</td>
</tr>
<tr>
<td>Weaver, James M.</td>
<td>16.00</td>
</tr>
<tr>
<td>Whitaker, R. C. and American</td>
<td></td>
</tr>
<tr>
<td>Central Insurance Company</td>
<td>41.93</td>
</tr>
<tr>
<td>Wilson, Blanche</td>
<td>750.00</td>
</tr>
<tr>
<td>Wisman, George, James and</td>
<td></td>
</tr>
<tr>
<td>Garnett, and Hazel Wood</td>
<td></td>
</tr>
<tr>
<td>and Ed. Moore</td>
<td>500.00</td>
</tr>
<tr>
<td>Young, Elizabeth</td>
<td>16.70</td>
</tr>
</tbody>
</table>

**Total** $10,512.92

*Claim Versus Adjutant General’s Department*

**TO BE PAID FROM GENERAL REVENUE FUND**

1 Palmer, Virginia S. $131.48

Section 5. Capital Expenditures from Surplus Revenues.—The following items are appropriated from the general revenue fund, subject to the following terms and conditions:

(a) The following items are hereby appropriated and are to be available for expenditure only out of the surplus in the treasury on the first day of July, 1949, or at the time release or encumbrance of any such items is made, subject to the conditions and limitations hereinafter expressed. On the best information which can be secured at this time it is estimated the amount of such surplus will be approximately $38,500,000.00.

Before making funds available or encumbering such surplus for expenditure hereunder, except as provided by subsection (b) hereof, the board of public works shall review the revenues of the state from the first day of July, 1949 to the date that appropriations hereunder are expected to be made available or encumbered for expenditure hereunder, and determine whether, in its opinion, revenues then in prospect or on hand will be sufficient to meet all appro-
21 appropriations under this section, and make a finding with re-
22 spect thereto.
23 (b) The board of public works, at its discretion, may
24 release a part or all of any of the items hereinafter set
25 forth in this section at any time after date of passage of
26 this act, for the purpose of supplementing funds for con-
27 struction projects now in process; for the purpose of
28 constructing buildings where plans and specifications are
29 complete and ready to submit for bids; and for the purpose
30 of state aid for county school building program, provided
31 that the total of such releases for the above purposes made
32 prior to July 1, 1949, shall not exceed the actual surplus in
33 the treasury as of July 1, 1948, which is reported at ap-
34 proximately $19,500,000.00.
35 (c) The order in which the items of this section are
36 named does not indicate a preference as to priority of ex-
37 penditure. The board of public works may authorize the
38 expenditure of any one or more of said items without
39 regard to the order in which they are listed.
40 (d) The amounts of the several items are suggestive,
41 and are not to be considered as absolute. The board may re-
42 vise or reduce any item downward, without restriction, or
43 eliminate it entirely, and may increase any one or more
44 of the items by not more than twenty-five per cent, so long
45 as such increases, if any, as to items so increased and re-
46 leased do not exceed the total amount made available un-
47 der this section, and corresponding decreases or elimina-
48 tions are made to offset increases.
49 (e) Expenditures authorized, which are for construc-
50 tion purposes, shall be for a complete and usable unit or pro-
51 ject, and in any case where additional funds are available,
52 by aid from a federal agency or other source, such fact may
53 be considered by the board in determining what items
54 should at any time be encumbered or released for expendi-
55 ture, provided, that in making such release the board shall
56 first determine that all funds available will provide for
57 completion of a complete and usable unit or project.
58 (f) Any of the items under this section may be released
59 or encumbrances made therefor at any time after the first
60 day of July, 1949, as the board may deem proper, subject
61 to the limitations of subsection (a) herein.
(g) In the event that the amount of the surplus shall exceed the estimated $38,500,000.00 embracing items (1) to (56), inclusive, the board of public works shall from any excess over such estimated amount first increase the amount of item (2) until it reaches, including the amount of $2,500,000.00 therein set forth, the sum of $4,500,000.00, and from any such excess still remaining shall increase the amount of item (56) until it reaches, including the amount of $4,000,000.00 therein set forth, the sum of $7,000,000.00, which said additional sum shall be subject to all the restrictions contained in said item (56).

Subject to the foregoing conditions, the following appropriations are made for the construction, including, if necessary, needed land acquisition, preparation of sites for buildings, and equipment of buildings, and for the purposes named in this section.

Item 1: Capitol Building, for repair of roof and downspouting in main unit, not to exceed $20,000.00; for overhauling electrical system, not to exceed $50,000.00; for ceiling plastering, replacement and repair, not to exceed $100,000.00; and for such other repairs and improvements as may be designated by the Board of Public Works, not to exceed $30,000.00

$ 200,000.00

Item 2: State Office Building Commission, for construction of a State Office Building

$ 2,500,000.00

Item 3: State Office Building Commission, for purchase of land upon which to construct a building to house state agencies supported in whole or in part from federal funds or state agencies supported by special funds. The amount of this appropriation to be available upon the passage of this act

$ 40,000.00
Ch. 9] GENERAL APPROPRIATIONS 75

103 Item 4: West Virginia University, for such building or buildings, including land and improvements thereon, as may be designated by the Board of Public Works upon recommendation by the Board of Governors of West Virginia University.

112 Of this appropriation $2,000,000.00 may be used for the purchase of land (Scott lots) in Preston county.

116 Item 5: West Virginia University — Agricultural Experiment Station, 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.

134 Item 7: West Virginia University — Reymann Memorial Farm, 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.

140 Item 8: Potomac State School of West Virginia University, for science building or 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.
144 designated by the Board of Public Works upon recommendation of the Board of Governors of West Virginia University. 

Item 9: Marshall College, for: (1) renovation and repair, including equipment of old science building, (2) to equip new science building, and (3) major repairs to administration building and (4) $100,000 for purchase of improved and unimproved lots or parcels of land situated in the block east of 18th Street in the city of Huntington directly across from and adjacent to the present campus of said college.

Item 10: Fairmont State College, for library building.

Item 11: Fairmont State College, for president's home.

Item 12: Glenville State College, for Health and Physical Educational building.

Item 13: West Liberty State College, for completion of sewage disposal system and improvements to water system.

Item 14: West Liberty State College, for completion of auditorium building.

Item 15: Shepherd College, for men's dormitory (to be supplemented by funds derived from sale of revenue bonds).

Item 16: Shepherd College, for gymnasium building.

Item 17: Concord College, for (1) to complete and equip science building, and (2) sewage...
<table>
<thead>
<tr>
<th>Item</th>
<th>Institution/Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>185</td>
<td>age disposal system</td>
<td>341,000.00</td>
</tr>
<tr>
<td>186</td>
<td>Item 18: West Virginia Institute of Technology, for science building and equipment</td>
<td>432,000.00</td>
</tr>
<tr>
<td>187</td>
<td>Item 19: West Virginia Institute of Technology, for administration building and/or such building or buildings as may be designated by the Board of Public Works upon recommendation of the State Board of Education</td>
<td>500,000.00</td>
</tr>
<tr>
<td>188</td>
<td>Item 20: West Virginia State College, for furniture and equipment for library building</td>
<td>166,950.00</td>
</tr>
<tr>
<td>189</td>
<td>Item 21: West Virginia State College, for purchase of land</td>
<td>50,000.00</td>
</tr>
<tr>
<td>190</td>
<td>Item 22: West Virginia State College, for science building and/or such building or buildings as may be designated by the Board of Public Works upon recommendation of the State Board of Education</td>
<td>475,000.00</td>
</tr>
<tr>
<td>191</td>
<td>Item 23: Bluefield State College, for vocational education building</td>
<td>440,000.00</td>
</tr>
<tr>
<td>192</td>
<td>Item 24: Bluefield State College, for health and physical education building and/or such building or buildings as may be designated by the Board of Public Works upon recommendation of the State Board of Education</td>
<td>900,000.00</td>
</tr>
<tr>
<td>193</td>
<td>Item 25: West Virginia State College—4-H Camp for Colored Boys and Girls, for sewage and water system</td>
<td>25,000.00</td>
</tr>
<tr>
<td>194</td>
<td>Item 26: West Virginia Schools for the Deaf and Blind,</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>226</td>
<td>for physical education building</td>
<td>500,000.00</td>
</tr>
<tr>
<td>227</td>
<td>Item 27: West Virginia</td>
<td></td>
</tr>
<tr>
<td>228</td>
<td>Schools for the Colored Deaf</td>
<td></td>
</tr>
<tr>
<td>229</td>
<td>and Blind, for auditorium, gymnasium and shop building</td>
<td>100,000.00</td>
</tr>
<tr>
<td>231</td>
<td>Item 28: West Virginia Industrial School for Boys, for</td>
<td></td>
</tr>
<tr>
<td>232</td>
<td>gymnasium and swimming pool and central heating plant</td>
<td>200,000.00</td>
</tr>
<tr>
<td>235</td>
<td>Item 29: West Virginia Industrial School for Colored Boys, for</td>
<td></td>
</tr>
<tr>
<td>236</td>
<td>major repairs to main building and/or such other building or</td>
<td></td>
</tr>
<tr>
<td>239</td>
<td>buildings as may be designated by the Board of Public Works</td>
<td></td>
</tr>
<tr>
<td>242</td>
<td>upon recommendation of the Board of Control</td>
<td>195,000.00</td>
</tr>
<tr>
<td>244</td>
<td>Item 30: West Virginia Industrial Home for Girls, for</td>
<td></td>
</tr>
<tr>
<td>246</td>
<td>such building or buildings or major repairs and alteration as</td>
<td></td>
</tr>
<tr>
<td>248</td>
<td>may be designated by the Board of Public Works upon recommendation of the Board of Control</td>
<td>114,500.00</td>
</tr>
<tr>
<td>256</td>
<td>Item 32: West Virginia Penitentiary, for completion of new cell block and acquisition of coal rights</td>
<td>505,650.00</td>
</tr>
<tr>
<td>261</td>
<td>Item 33: Medium Security Prison, for such building or buildings, including major repairs, as may be designated by the Board of Public Works upon recommendation of the Board of Control</td>
<td>103,500.00</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>34</td>
<td>West Virginia Colored Children's Home for fire escapes and major repairs</td>
<td>7,600.00</td>
</tr>
<tr>
<td>35</td>
<td>West Virginia Home for Aged and Infirm Colored Men and Women, for major repairs</td>
<td>10,000.00</td>
</tr>
<tr>
<td>36</td>
<td>West Virginia Training School for Power house and central heating plant</td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>Andrew S. Rowan Memorial Home, for such building or major repairs and alterations</td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>Weston State Hospital, for such building or building or fireproofing and enlarging existing buildings, or capital repairs, as may be designated by the Board of Public Works upon recommendation of the Board of Control</td>
<td>411,500.00</td>
</tr>
<tr>
<td>39</td>
<td>Spencer State Hospital, for such building or buildings and repairs and alterations of buildings, as may be designated by the Board of Public Works upon recommendation of the Board of Control</td>
<td>1,288,150.00</td>
</tr>
<tr>
<td>40</td>
<td>Huntington State Hospital, for such building, or buildings or fireproofing and major repairs and equipment</td>
<td>770,000.00</td>
</tr>
</tbody>
</table>
308 of present buildings, as may
309 be designated by the Board of
310 Public Works upon recom-
311 mendation of the Board of Con-
312 trol .............................................. 710,000.00
313 Item 41: Lakin State Hospi-
314 tal, for such building or build-
315 ings, and/or major repairs and
316 alterations as may be desig-
317 nated by the Board of Public
318 Works upon recommendation
319 of the Board of Control ......... 489,830.00
320 Item 42: Barboursville State
321 Hospital, for such building or
322 buildings and/or major repairs
323 and alterations as may be desig-
324 nated by the Board of Public
325 Works upon recommendation
326 of the Board of Control ........ 255,600.00
327 Item 43: Welch Emergency
328 Hospital, for laundry equip-
329 ment and major repairs to
330 buildings .................................. 13,500.00
331 Item 44: Hopemont Sanitari-
332 um, for new hospital unit ...... 1,000,000.00
333 Item 45: Pinecrest Sanitari-
334 um, for employees' quarters
335 and farm buildings ................. 60,000.00
336 Item 46: Denmar Sanitari-
337 um, for additional T. B. unit
338 and such other buildings as
339 may be designated by the
340 Board of Public Works upon
341 recommendation of the Board
342 of Control .................................. 347,000.00
343 Item 47: Morris Memorial
344 Hospital, for building to be
345 constructed on land to be deed-
346 ed to the State of West Vir-
347 ginia and to be operated by
348 Morris Memorial Hospital un-
der such agreement as may be entered into by the Board of Control and Trustees of Morris Memorial Hospital and approved by the Governor and the Attorney General

Item 48: Berkeley Springs Sanitarium, for service system repairs, major building repairs and ground improvements and equipment as may be designated by the Board of Public Works upon recommendation of the Board of Control

Item 49: Conservation Commission, for (1) Construction of bridge across Middle Island Creek from Route 18 to the 4-H Camp property in Tyler County, $50,000.00; (2) Improvement of road to bathhouse at Tygart Lake in Taylor County, $50,000; (3) Improvement of recreational area at Cabwaylingo State Park, $150,000.00; (4) Development of picnic and recreational areas in Kanawha State Forest, $75,000.00; (5) Purchase of land adjacent to Grandview State Park, $29,000.00; and for such other buildings and improvements as may be designated by the Board of Public Works upon recommendation of the Conservation Commission

Item 50: Conservation Commission — Division of State Parks, for such buildings and improvements as may be designated by the Board of Public

100,000.00

100,000.00

605,000.00
390 Works upon recommendation of the Conservation Commission - 548,000.00
391 Item 51: Conservation Commission — Division of State Parks, for the acquisition of land and construction of park facilities and buildings for establishment of a state park, upon recommendation of the Conservation Commission and approval of the Joint Legislative Committee on Government and Finance. 500,000.00
392 Item 52: State Armory Board, for construction and/or acquisition of new armories, including needed land acquisition, and for purchase and repair of buildings now used or to be used as armories. 797,100.00
393 Item 53: Department of Education, for state aid to counties for school building program, to be distributed by the State Board of School Finance on such basis as may be determined by the Legislature. 10,000,000.00
394 Item 54: Department of Agriculture, for acquisition or construction, including equipment of a poultry pathological laboratory. 10,000.00
395 Item 55: Board of Public Works, Contingent Fund. 784,000.00
396 The foregoing appropriation of $784,000.00 may be expended for the following purposes: (a) The amount of $689,000 may be released by the Board of Public Works only to the State Mental Institutions,
in such amounts for each institution as the Board may deem necessary for the proper and adequate treatment, care and maintenance of the patients therein, for expenditure by such institutions during the biennium for personal services, current expenses, and equipment. However, no greater amount shall be released to any such institution, including regular appropriations made by this act to it, than originally set forth in its budget requests;

(b) To provide financial assistance for the maintenance and operation of the Colored Day Nursery and Child Shelter, Charleston, West Virginia, an institution for the care of orphan and homeless colored children for whom the state does not provide adequate facilities the sum of $7,500.00 for each year of the biennium

(c) To supplement appropriations for state aid to schools to insure that no county will receive less state aid for the fiscal year 1949-50 than its allocation for the fiscal year 1948-49 and not to exceed in total amount the sum of $40,000.00;

(d) To provide financial assistance to the Morris Memorial Hospital in the amount of $10,000.00 for each year of the biennium 1949-51; (e) To provide financial assistance to Mar-
amount of $7,500.00 for each
year of the biennium 1949-51;
(f) To provide financial assist-
ance to the “Pines”-West Vir-
ginia Foundation for Crippled
Children, in the amount of
$2,500.00 for each year of the
biennium 1949-51.
Item 56: State Road Commis-
sion—Construction of Primary
Roads, none of which may be
used for the purchase of equip-
ment _______________________ 4,000,000.00
At 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 preliminary
studies and surveys, for comprehensive over-all planning-
of building and grounds of the state institutions, filing ap-
plication for federal aid, and for the preparation of bidding
documents for the construction of any building or build-
ings covered by the item.

Sec. 6. Reappropriations.—The date for expiring unex-
pended balances, if any, in the appropriations made by and
under authority of section 3-a of the 1945 budget act as
reappropriated by section 20 of the 1947 budget act, and
appropriations made by and under authority of section 5
of the 1947 budget act, subject to the limitations and can-
celations as shown in sub-section (a) herein, is hereby ex-
tended to June 30, 1951 and such items are hereby reappro-
priated from their respective dates of expiration to June 30,
1951.
(a) The unreleased and unencumbered balances in items
(8), (9), (11), (14), (17), (31) and (38), of section 3-a,
of the 1945 budget act, as reappropriated, and the unre-
leased and unencumbered balances in items (4), (11),
(13), (14), (16), (18) and (20) of section 5 of the 1947
Budget Act are hereby cancelled and are included in the
amount of items of appropriation made under section 5 of
this act. The date of expiration of the unexpended balance
19 in “excess collections” of all educational institutions for
20 the fiscal year 1948-49 collected and deposited prior to July
21 1, 1949, shall not be deemed to have expired but shall be
22 available for expenditure within the biennium beginning
23 July 1, 1949, except that no part of such excess collections
24 hereby reappropriated shall be expended for personal
25 services.

Sec. 7. Special Revenue Appropriations.—There is here-
2 by appropriated for expenditure during the fiscal years
3 one thousand nine hundred fifty and one thousand nine
4 hundred fifty-one appropriations made by general law
5 from special revenue which is not paid into the state fund
6 as general revenue under the provisions of section two,
7 article two, chapter twelve of the code of West Virginia,
8 one thousand nine hundred thirty-one: Provided, how-
9 ever, That collections after July 1, 1949 from the sale of
10 farm and dairy products at all benevolent, penal, mental
11 and correctional institutions shall be deposited to State
12 Fund—General Revenue as regular collections: Provided
13 further, That none of the moneys so appropriated by this
14 section shall be available for expenditure except in compli-
15ance with and in conformity to the provisions of articles 2
16 and 3, of chapter 12, code of West Virginia, and chapter 39,
17 acts of the Legislature, regular session, one thousand nine
18 hundred thirty-nine, and unless the spending unit has filed
19 with the state director of the budget and the state auditor
20 prior to the beginning of each fiscal year:
21 (a) An estimate of the amount and sources of all reve-
22 nues accruing to such fund;
23 (b) A detailed expenditure schedule showing for what
24 purposes the fund is to be expended.

Sec. 8. Appropriations Revived and Extended.—A part
2 of an appropriation to a spending unit that remains unex-
3 pended at the end of the fiscal year one thousand nine hun-
4 dred fifty may, by order of the board of public works, be
5 revived and extended only to meet unforeseen contingen-
6 cies arising during the fiscal year one thousand nine hun-
7 dred fifty-one.

Sec. 9. Specific Statutory Appropriations.—Whenever
2 the specific payment of a definite sum of money is required
3 by general law such sum shall be paid from the proper
4 item appropriated by this act.

Sec. 10. Specific Funds and Collection Accounts.—A fund
2 or collection account, which by law is dedicated to a spe-
3 cific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection ac-
5 count, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 11. Appropriations for Refunding Erroneous Pay-·
2 ments.—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.
5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his war-
9 rant to the treasurer and the treasurer shall pay the war-
10 rant out of the fund into which the amount was originally
11 paid.

Sec. 12. Contingent Fund.—A contingent fund may be ex-
2 pended as appropriated, with the approval of the board of
3 public works, when the expenditure will improve the gov-
4 ernmental service and care for unexpected contingencies.
5 A part of a contingent fund that remains unexpended at
6 the end of the first fiscal year shall automatically become
7 available for expenditure during the second fiscal year.
8 The expenditure of the governor’s civil contingent fund,
9 and the legislative contingent funds shall not be condi-
10 tioned upon the approval of the board of public works.

Sec. 13. Sinking Fund Deficiencies.—There is hereby ap-
2 propriated to the board of public works a sufficient
3 amount to meet a deficiency that may arise in the fund of
4 the state sinking fund commission because of the failure
5 of any state agency or local taxing district to remit funds
6 necessary for the payment of interest and sinking fund
7 requirements. The board of public works is authorized to
8 transfer from time to time such amounts to the state sink-
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. 14. 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. There is hereby appropriated from the cigarette tax for administration and enforcement of the law relating to said tax a sum not to exceed one and one-half per cent of the tax collected or stamps sold. 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. 15. Appropriations to Pay Premiums on Bonds of County Clerks.—There is hereby appropriated out of the general school fund, to be paid upon the requisition of the auditor, a sum sufficient to pay premiums on bonds of county clerks to protect funds belonging to the said general school fund, and out of the special revenue fund of the conservation commission, to be paid upon the requisition of the commissioner, a sum sufficient to pay premiums on bonds of county clerks to protect funds belonging to the said conservation commission.

Sec. 16. 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. 17. Appropriations for Local Governments.—There are 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. 18. 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. 19. 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 I, Section 3.

Sec. 20. General School Fund.—The balance of the proceeds of the general school fund remaining after the payment 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.

Title 3. Administration.

Section
1. Appropriations conditional.
2. Suspension of certain acts.
3. Limitation on spending.
4. Limitation on publicity.
5. Limitation on expenditures for insurance.
6. Constitutionality.

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

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

Sec. 3. Limitation on Spending.—The appropriations
2 made by this act are made for the maintenance and opera-
3 tion of the departments, services, and institutions, humane,
4 educational, eleemosynary, and penal, as heretofore estab-
5 lished by the Legislature, and may be expended only for
6 the maintenance and operation of the departments, ser-
7 vices, and institutions as so established; and no part of any
8 appropriation, including contingent and emergency appro-
9 priations, made by this act for any institution, humane, ed-
10 ucational, eleemosynary, or penal, shall be expended for
11 any purpose or at any place other than for the maintenance
12 and operation of such institution at the geographical place
13 or location at which such institution has heretofore been
14 established by the Legislature, and for no other purpose
15 and at no other place: Provided, however, That where
16 any appropriation appears in the name of an institution,
17 the name of which has been changed by an act of this ses-
18 sion of the Legislature, the funds appropriated for the old
19 institution shall be applied to the institution operating un-
20 der the new name and succeeding to the possession of the
21 physical plant of the former institution, and any officer or
22 person who shall expend or shall participate in the ex-
23 penditure of any part of any appropriation made by this
24 act in violation of any of the provisions hereof shall be per-
25 sonally liable therefor.

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

Sec. 5. Limitation on Expenditures for Insurance.—Not
2 more than ten per cent of the total amount which may be
3 expended from all appropriations of this act for the pay-
4 ment of premiums on fire, casualty or fidelity insurance
5 shall be paid to insurance agents or agencies in any one
6 county, and of such total amount not more than five per
7 cent shall be paid to any one insurance agent or agency.

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

CHAPTER 10

(Senate Bill No. 241—By Mr. Mitchell and Mr. Love)

AN ACT to amend and reenact section six, article one-a, chap-
er twenty-five of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the use
of the funds in the farm sales fund account at the West Vir-
ginia Industrial School for Boys.

[Passed March 7, 1949; in effect from passage. Approved by the Governor.]

Article 1-a. Collection and Expenditure of Money Collected at
State Institutions.

Section
6. Sale of excess farm and dairy products; expenditure of receipts
directed and restricted; revenue from coal stripping at the West
Virginia industrial school for boys; use of funds in the farm sales
fund account.

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; Use of Funds in the Farm Sales Fund Account.—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.

The board of control is further authorized to use from this fund an amount not to exceed fifty thousand dollars for the purchase of necessary equipment and furniture for the boys' dormitories now under construction, and for the gymnasium and swimming pool.

CHAPTER 11

(House Bill No. 206—By Mr. Trent)

AN ACT to compensate Luther W. Gartin for personal injuries and to reimburse him for medical expenses incurred as a result of a sliver of steel imbedding itself in his right eye and a subsequent loss of sight in said eye.

(Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.)

Section 1. Appropriation for Luther W. Gartin.

WHEREAS, On February twenty-fifth, one thousand nine hundred forty-one, Luther W. Gartin, of Logan, Logan county,
West Virginia, was employed by the Logan county board of education as a carpenter; and

WHEREAS, While working on the Chambers school building in Logan, where he was taking a hinge off the front door of said building, a sliver of steel imbedded itself in his right eye; and

WHEREAS, As a result of such injury the sight of the right eye was immediately impaired and several months later a permanent loss of sight in said right eye occurred; and

WHEREAS, Luther W. Gartin necessarily incurred medical and other expenses; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Luther W. Gartin.—It appearing from a statement of the revenues and appropriations for the fiscal year one thousand nine hundred forty-eight-one thousand nine hundred forty-nine, 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 two thousand two hundred thirty-nine dollars to Luther W. Gartin to compensate him for personal injuries suffered and to reimburse him for medical expenses incurred as a result of a sliver of steel imbedding itself in his right eye and a subsequent loss of sight in said eye while he was working for the Logan county board of education.

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 12

(Com. Sub. for Senate Bill No. 42—Originating in the Senate Committee on Claims and Grievances)

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 9, 1949; in effect July 1, 1949. 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 recommendations 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 Auditor.
1. Crescent Brick Company $333.40
2. Duncan W. Daugherty $615.00
(b) Claim versus State Board of Control.
1. Musgrove's Wholesale Grocery $151.66
(c) Claims versus State Conservation Commission.
1. Robert Ray Robinson, an infant $2,000.00
2. Lena J. Webb $35.00
(d) Claims versus State Road Commission.
1. George Slayton $25.00
2. Jack L. and Martha Hendrickson $22.15
3. Nellie O. Short $43.90
4. Zora Starcher, Bessie Starcher Cahill, and Nora Starcher Rexroad $150.00
5. William M. Knisely $17.50
6. Alex Farley $100.00
7. Eureka Pipe Line Company $367.42
8. Sim McGrady $38.00
9. Katherine Presson $100.00
### CLAIMS AGAINST THE STATE

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<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Amount</th>
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</thead>
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<tr>
<td>32</td>
<td>Eureka Pipe Line Company</td>
<td>$209.31</td>
</tr>
<tr>
<td>33</td>
<td>Zackwell Cochran</td>
<td>$40.00</td>
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<tr>
<td>34</td>
<td>Lucille H. Moore</td>
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<tr>
<td>35</td>
<td>Clark Bailey</td>
<td>$50.00</td>
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<tr>
<td>36</td>
<td>John H. Breedlove</td>
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<tr>
<td>37</td>
<td>Thomas Saunders</td>
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<td>38</td>
<td>R. C. Whitaker and American Central Insurance Company</td>
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<td>39</td>
<td>Maud Clark</td>
<td>$500.00</td>
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<tr>
<td>40</td>
<td>Elizabeth Young</td>
<td>$16.70</td>
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<tr>
<td>41</td>
<td>Dee Jackson</td>
<td>$100.00</td>
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<tr>
<td>42</td>
<td>A. R. Sidell, M. D.</td>
<td>$19.81</td>
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<tr>
<td>43</td>
<td>S. P. Catron</td>
<td>$1,250.00</td>
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<td>44</td>
<td>Sybil C. Light</td>
<td>$540.00</td>
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<td>45</td>
<td>Elite Laundry Company</td>
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<tr>
<td>46</td>
<td>Blanch Wilson</td>
<td>$750.00</td>
</tr>
<tr>
<td>47</td>
<td>George Wisman, James Wisman, Gar- net Wisman, Hazel Wood and Ed Wood</td>
<td>$500.00</td>
</tr>
</tbody>
</table>
| 48  | (e) Claims versus Department of Unemploy- ment Compensation. | ![](image)
| 49  | (1) Utilities Coal Company, a corporation | $240.62 |
| 50  | (2) Buffalo-Winifrede Coal Company, a corporation | $52.05 |
| 51  | (f) Claims versus West Virginia Board of Education. | ![](image)
| 52  | (1) Broadhead-Garrett Company, Inc.      | $69.86  |
| 53  | (2) Galperin Music Company              | $27.95  |

### CHAPTER 13

*(Senate Bill No. 131—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 11, 1949; in effect July 1, 1949. Approved by the Governor.]

**Section**

1. Finding and declaring claims of J. W. Coole and Alice E. McClung against the state 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 Claims of J. W. Coole and Alice E. McClung Against the State to Be Moral Obligations 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 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.

<table>
<thead>
<tr>
<th>Name</th>
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</tr>
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<tbody>
<tr>
<td>McClung, Alice E.</td>
<td>$1,440.00</td>
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<tr>
<td>Coole, J. W.</td>
<td>$5,000.00</td>
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CHAPTER 14

(Senate Bill No. 254—By Mr. Wylie)

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 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 1. Finding and declaring claims of W. B. Jordan, et al, against the state 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 Claims of W. B. Jordan, et al, Against the State to Be Moral Obligations of the State, and Directing Payment Thereof.—The Legislature of the state of West Virginia finds that W. B. Jordan and Lena Jordan and Betty Lou Jordan and W. B. Jordan, Jr., infants under the age of twenty-one years, were injured on
the second day of September, one thousand nine hundred forty-five, while traveling in an automobile over the state maintained highway (called the Bolt-Glen Daniel highway) in Raleigh county, West Virginia, and that said injuries were approximately caused by failure of state employees to adopt and enforce proper precaution signs to warn the traveling public upon said highway of the approaching of a road bridge which had been completely removed by a maintenance crew for the purpose of re-construction thereof, and hereby declare it to be the moral obligation of the state to pay each of the claims of said persons in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of funds appropriated and available for the purpose.

W. B. Jordan ......................................................... $1,000.00
Lena Jordan ........................................................... $ 250.00
Betty Lou Jordan .................................................... $ 250.00
W. B. Jordan, Jr. ..................................................... $ 250.00

CHAPTER 15
(Senate Bill No. 277—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 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 1. Finding and declaring certain claims against the state road commission, the adjutant general's department and the state board of education 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 Road Commission, the Adjutant General's Department and the State Board of Education to Be Moral Obligations 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 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 fund appropriated and available for the purpose.

(a) Claims versus State Road Commission.
   (1) Sarah Ann Brown $500.00
   (2) Hewitt L. Cabell $226.07
   (3) Clifford Leonard $56.62
   (4) R. B. Lowe $217.67
   (5) Grace Lycans $374.49
   (6) A. S. Price $300.00
   (7) James M. Weaver $16.00

(b) Claims versus Adjutant General’s Department.
   (1) Virginia S. Palmer $131.48

(c) Claim versus State Board of Education.
   (West Virginia Institute of Technology)
   (1) Charleston Electrical Supply Company $300.00

CHAPTER 16
(House Bill No. 148—By Mr. Hudgins)

AN ACT to amend section ten, article three, chapter forty, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the filing of conditional sales contracts.

[Passed February 21, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 3. Conditional Sales.
Section 10. Filing.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Filing—The filing officer shall mark upon the contract or copy filed with him for record the day and hour of filing and shall file the contract or copy in his office for public inspection. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of the goods, the price named in the contract and the date of cancellation thereof, except that in entering the contracts mentioned in section eight of this article, the secretary of state shall record either the sum remaining to be paid upon the contract or the price of the goods. Such book shall be indexed under the names of both seller and buyer. For filing and entering such contract or copy, a fee of seventy-five cents shall be charged.

CHAPTER 17
(House Bill No. 373—By Mr. Ballard, of Mercer)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending section thirty-three of article six thereof, relating to compensation of members of the Legislature.

[Passed March 10, 1949; in effect ninety days from passage. Approved by the Governor.]

Compensation of Members of the Legislature Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “Compensation of Members of the Legislature 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 the State Con-
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, 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 fifty, which proposed amendment is as follows:

PROPOSED AMENDMENT

Article 6—Section 33

Compensation of Members of the Legislature

Section 33. The members of the Legislature shall each receive for their services, the sum of one thousand dollars per annum, and ten cents for each mile traveled in going to and returning from the seat of government by the most direct route, and in addition thereto, shall receive ten dollars per day for each day's attendance upon any extended or extraordinary session of the Legislature. The Speaker of the House of Delegates and the President of the Senate shall each receive an additional compensation of five dollars per day for each day they shall act as presiding officer. No other allowance or emolument than that by this section provided shall directly or indirectly be made or paid to the members of either house for postage, stationery, newspapers, or any other purpose whatever.

Sec. 2. Amendment to be Known as the “Compensation of Members of the Legislature 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 the “Compensation of Members of the Legislature 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 fifty, 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 “Compensation of Members of the Legislature
Amendment.”
☐ For ratification of Compensation of Members of the
Legislature Amendment.
☐ Against ratification of Compensation of Members of
Legislature Amendment.

The said election on the proposed amendment at each
place of voting shall be superintended, conducted and
returned, 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. Certificates 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 cer-
tificates 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 fifty, upon the question of the ratification or
rejection of the proposed constitutional amendment, do
hereby certify that the result of said election is as fol-
lows:
“For ratification of Compensation of Members of the
Legislature Amendment ________ votes."
"Against ratification of Compensation of Members of the Legislature Amendment ______ votes.

"Given under our hands this ____ day of ________________,

one thousand nine hundred fifty."

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 any one of them, as the case may be), shall, within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court of 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 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 fifty, 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 Compensation of Members of the Legislature Amendment __________ votes.

"Against ratification of Compensation of Members of the Legislature Amendment __________ votes.

"Given under our hands this________ day of ________________,

one thousand nine hundred fifty."

One of the certificates shall be filed in the office of the clerk of the county court, and the other forwarded by
mail to the secretary of state, who shall file and preserve
the same until the day on which the result of said 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 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 pro-
posed 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 Gov-
ernor.—The governor shall cause the said proposed amend-
ment, with the proper designation for the same as herein-
before 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 18
(Senate Bill No. 278—By Mr. Love)

AN ACT providing for the submission to the voters of the state
of an amendment to section eight of article ten of the
constitution of the state.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the
Governor.]

School Bond Amendment
Section
1. Submitting an amendment to the state constitution.
Be it enacted by the Legislature of West Virginia:

Section 1. Submitting an Amendment to the State Constitution.—That the question of ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred fifty, which proposed amendment is as follows:

That section eight, article ten of the constitution of West Virginia be amended so as to read as follows:

Section 8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the value of the taxable property therein to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article, separate and apart from and in addition to all other taxes for all other purposes, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years. Such tax, in an amount sufficient to pay the interest and principal on bonds issued by any school district not exceeding in the aggregate three per centum of such assessed value, may be levied outside the limits fixed by section one of this article: Provided, That no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same.

Sec. 2. Amendment to be Known as the “School Bond...
CONSTITUTIONAL AMENDMENTS

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 fifty, 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 “School Bond Amendment.”

☐ For ratification of School Bond Amendment.

☐ Against ratification of School Bond Amendment.

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, 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 practicable, and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.

Sec. 4. Certificates of Election Commissioners; Canvass of Vote; Certifying Result.—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or 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
12 hundred fifty, upon the question of the ratification or
13 rejection of the proposed constitutional amendment, do
14 hereby certify that the result of said election is as follows:
15 "For ratification of School Bond Amendment____ votes.
16 "Against ratification of School Bond Amendment____ votes.
17 "Given under our hands this____ day of___________, one
18 thousand nine hundred fifty."
19 The said two certificates shall correspond with each
20 other in all respects and contain the full and true re-
21 turns of said election at each place of voting on said ques-
22 tion. The said commissioners, or any one of them (or
23 said canvassers or any one of them, as the case may be),
24 shall, within four days, excluding Sunday, after that
25 on which said election was held, deliver one of said cer-
26 tificates to the clerk of the county court of his county,
27 together with the ballots, and the other to the clerk of
28 the circuit court of the county.
29 The said certificates, together with the ballots cast on
30 the question of said proposed amendment, shall be laid
31 before the commissioners of the county court at the
32 courthouse at the same time the ballots, poll books, and
33 the certificates of election of the members of the Legis-
34 lature are laid before them; and as soon as the result of
35 said election in the county upon the question of such
36 ratification or rejection is ascertained, two certificates of
37 such result shall be made out and signed by said com-
38 missioners as a board of canvassers, in the form or to
39 the following effect:
40 "We, the board of canvassers of the county of______ ___,
41 having carefully and impartially examined the returns
42 of the election held in said county, in each district thereof,
43 on the ______ day of November, one thousand nine hun-
44 dred fifty, do certify that the results of the election in
45 said county, on the question of the ratification or rejec-
46 tion of the proposed amendment is as follows:
47 "For ratification of School Bond Amendment____ votes.
48 "Against ratification of School Bond Amendment____ votes.
49 "Given under our hands this____ day of___________, one
50 thousand nine hundred fifty."
51 One of the certificates shall be filed in the office of the
52 clerk of the county court, and the other forwarded by
mail to the secretary of state, who shall file and preserve
the same until the day on which the result of said elec­
tion in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by 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 ques­
tion 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 Gov­
er. — 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 news­
paper 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 appropria­
tion of the Legislature.

CHAPTER 19
(House Bill No. 398—By Mr. Trent)

AN ACT to provide for the submission to the voters of the state
an amendment to the constitution of the state, to be known
as the “Veterans’ Bonus Amendment”.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the
Governor.]

Veterans’ $90,000,000.00 Bonus Amendment.

Section 1. Submitting “Veterans’ $90,000,000.00 Bonus Amendment” to the
state constitution.
2. Amendment to be known as the "Veterans' $90,000,000.00 Bonus 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 "Veterans' $90,000,000.00 Bonus 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, 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 fifty, which proposed amendment is as follows:

Veterans' Bonus Amendment

The Legislature shall by law provide for the issuance and sale of state bonds, not to exceed in the aggregate ninety million dollars, which shall be in addition to all other state bonds heretofore authorized. The proceeds of such additional bonds, or so many thereof as may be necessary for the purpose, shall be used and appropriated solely for the purpose of paying a cash bonus to veterans of World War I and World War II. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States in World War I between the sixth day of April, one thousand nine hundred seventeen, and the eleventh day of November, one thousand nine hundred eighteen, both dates inclusive, or in World War II between the seventh day of December, one thousand nine hundred forty-one, and the second day of September, one thousand nine hundred forty-five, both dates inclusive, or in both such wars, who were bona fide residents of the state of West Virginia at the time of their entry into such service and for a period of at least six months prior thereto, who were not dishonorably discharged from such forces, and who within the periods specified above actively served in such armed forces for a period of at least ninety days. Such a bonus shall also be paid to any disabled veteran, otherwise
34 qualified, who was discharged within ninety days after
35 entering the services because of a service connected dis-
36 ability. The amount of such bonus shall be calculated
37 on the basis of ten dollars for each month, or major frac-
38 tion thereof, served within the territorial limits of the
39 forty-eight states and the District of Columbia, and fif-
40 teen dollars for each month, or major fraction thereof,
41 served outside such limits, but such amount shall in no
42 case exceed three hundred dollars for those who served
43 only within the territorial limits specified above, and
44 four hundred dollars for those who served outside such
45 limits. The bonus to which any deceased veteran would
46 be entitled, if living, shall be paid only to the following
47 surviving relatives of such veteran, if such relatives are
48 residents of this State when application for payment is
49 made: Any unremarried widow, or if none, any child
50 or children under the age of sixteen, or if none, any de-
51 pendent parent or parents.
52 Whenever the Legislature shall provide for the issuance
53 of any bonds under the authority of this amendment, it
54 shall at the same time provide for the levy and collection
55 of an additional cigarette tax, or an additional tax on
56 nonintoxicating beer, or an additional charge on the sale
57 of each bottle of wine and liquor, or an additional general
58 consumers sales tax, or a graduated income tax, or any
59 two or more thereof, in such amount as may be required
60 to pay annually the interest on such bonds and the prin-
61 cipal thereof within and not exceeding thirty years.

Sec. 2. Amendment to be Known as the "Veterans'
2 $90,000,000.00 Bonus Amendment".—For convenience in
3 referring to said proposed amendment, and in the prep-
4 aration of the form of the ballot hereinafter provided for,
5 said proposed amendment is hereby designated as the
6 "Veterans' Ninety Million Dollars Bonus Amendment".

Sec. 3. Form of Ballot; Election.—For the purpose of
2 enabling the voters of the state to vote on the question
3 of said proposed amendment to the constitution at the
4 said general election to be held in the year one thousand
5 nine hundred fifty, 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 “Veterans’ $90,000,000.00 Bonus Amendment”.
(The Bonus Bonds to be Retired by Additional Taxes.)
☐ For ratification of Veterans’ $90,000,000.00 Bonus Amendment.
☐ Against ratification of Veterans’ $90,000,000.00 Bonus Amendment.

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, 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 practicable, and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.

Sec. 4. Certificates of Election Commissioners; Canvass of Vote; Certifying Result.—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or 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 fifty, 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 Veterans’ Ninety Million Dollars Bonus Amendment ___________ votes.”
Against ratification of Veterans' Ninety Million Dollars Bonus Amendment ______ votes.

"Given under our hands this ______ day of ________________

one thousand nine hundred fifty."

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 any one of them, as the case may be), shall, within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court of 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 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 fifty, 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 Veterans' Ninety Million Dollars Bonus Amendment ______ ______ votes.

"Against ratification of Veterans' Ninety Million Dollars Bonus Amendment ______ votes.

"Given under our hands this ______ day of ________________

one thousand nine hundred fifty."

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 the same until the day on which the result of said
election in the state is to be ascertained, as hereinafter
stated.

Sec. 5. Proclamation of Result of Election by Gov-
ernor.—On the twenty-fifth day after the election is held,
or as soon thereafter as practicable, the said certificate
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 gov-
ernment. 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 Gov-
ernor.—The governor shall cause the said proposed amend-
ment, 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 con-
tingent fund and be afterwards repaid to such fund by
appropriation of the Legislature.

CHAPTER 20
(Com. Sub. for House Bill No. 209—Originating in the House Committee on
the Judiciary)

AN ACT to amend and reenact section three, article one, chap-
ter thirty-one of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to powers,
compromises, reorganization and charitable contributions by corporations.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the Governor.]

Section 3. Powers, provision for compromises and reorganizations.

Be it enacted by the Legislature of West Virginia:

That section three, 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 3. Powers; Provision for Compromises and Reorganizations.—Every corporation as such shall have succession by its corporate name for the time limited in its charter, and, if no time be limited, perpetually. It shall have a common seal and may renew or alter the same at pleasure. It may sue and be sued, complain and defend; contract and be contracted with, by simple contract or specialty; purchase, hold, use, grant, mortgage, pledge, encumber and lease real and personal estate and its franchises, unless forbidden by law; appoint officers and agents, prescribe their powers, duties and liabilities, take bond and security from any of them, and fix their compensation, make all lawful by-laws for the management of its property, the conduct of its business, and the pursuit of the purposes of its incorporation; and generally exercise all of the powers set forth in its charter and those enumerated in this article; and also do and perform every other act or thing not inconsistent with law which may be appropriate to promote and attain the objects and purposes set forth in its charter.

Any corporation created or existing under the laws of the state is hereby authorized by action of its board of directors to make contributions to or for the use or benefit of: The United States, any state, territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclu-
28 sively public purposes; or a corporation, trust, or com-
29 munity chest, fund, or foundation, created or organized
30 in the United States, or in any possession thereof, or
31 under the laws of the United States, or of any state or
32 territory or of the District of Columbia or of any pos-
33 session of the United States, organized and operated
34 exclusively for religious, charitable, scientific, veterans
35 rehabilitation service, literary or educational purposes,
36 or for the prevention of cruelty to children, no part of
37 the earnings of which inures to the benefit of any pri-
38 vate shareholders or individuals, and no substantial part
39 of the activities of which is carrying on propaganda, or
40 otherwise attempting to influence legislation; or posts
41 or organizations of war veterans, or auxiliary units of,
42 or trusts or foundations for, any such posts or organi-
43 zations, if such posts, organizations, units, trusts, or foun-
44 dations are organized in the United States or any of
45 its possessions, and if no part of their net earnings inures
46 to the benefit of any private shareholder or individual.
All contributions made heretofore by authority of the
board of directors of the corporation for the purposes
prescribed by this act are hereby ratified and con-
47
48 Every corporation created for profit, either under the
49 general provisions of this chapter or under the special
50 provisions and requirements thereof applicable to spe-
51 cial classes of corporation, other than banking institu-
52 tions, shall also have power to include in its agreement
53 of incorporation the provisions, contained in subdivision
54 (h) of section six of this article, for compromises and
55 arrangements between the corporation so created and
56 its creditors and/or stockholders and for reorganizations
57 of such corporation in consequence of such compro-
58 mises and arrangements. Whenever such provision is
59 included in the original agreement of incorporation of
60 any such corporation, all persons who become creditors
61 or stockholders thereof shall be deemed to have become
62 such creditors or stockholders subject in all respects
63 to such provision and the same shall be absolutely bind-
64 ing upon them; and whenever such provision is in-
65 serted in the charter of any such corporation by an
69 amendment of such charter all persons who become
70 creditors or stockholders of such corporation after such
71 amendment shall be deemed to have become such cred-
72 itors or stockholders subject in all respects to the said
73 provision and the same shall be absolutely binding
74 upon them. Every such corporation, in the charter of
75 which is included or inserted the said provision con-
76 tained in said subdivision (h) of section six shall be
77 of such nature that any court of equitable jurisdiction
78 within this state shall have power to administer and
79 enforce such provision, and to restrain, pendente lite,
80 all actions and proceedings against any such corpora-
81 tion with respect to which the court so restraining shall
82 have begun the administration and/or enforcement of
83 such provision, and to appoint a temporary receiver or
84 receivers for such corporation and to grant such re-
85ceiver or receivers such powers as shall be deemed
86 proper.

CHAPTER 21

(Senate Bill No. 140—By Mr. Eddy)

AN ACT to amend and reenact section three, article four-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection, payment and dishonor of demand items by banks and the revocation of credit for, and payment of, such items.

[Passed March 7, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 3. Within what time provisional credit may be revoked.

Be it enacted by the Legislature of West Virginia:

That section three, article four-a, 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 3. Within What Time Provisional Credit May Be Revoked.—In any case in which a bank receives, other than for immediate payment over the counter, a demand item payable by, at or through such bank and gives credit therefor before midnight of the day of receipt, such credit shall be provisional and the bank may have until midnight of its next business day after receipt within which to dishonor or refuse payment of such item. Any credit so given together with all related entries on the books of the receiving bank may be revoked by returning the item, or if the item is held for protest or at the time is lost or is not in the possession of the bank, by giving written notice of dishonor, nonpayment, or revocation: Provided, That such item or notice is dispatched in the mails or by other expeditious means not later than midnight of the bank’s next business day after the item was received. For the purpose of determining when notice of dishonor must be given or protest made under the law relative to negotiable instruments, an item duly presented, credit for which is revoked as authorized by this section, shall be deemed dishonored on the day the item or notice is dispatched. A bank, revoking credit pursuant to the authority of this section, shall be entitled to refund of, or credit for, the amount of the item.

For the purposes of this section: (a) An item received by a bank on a day other than its business day, or received on a business day after its regular business hours or during afternoon or evening periods when it has re-opened or remained open for limited functions, shall be deemed to have been received at the opening of its next business day; and (b) the term “credit” includes payment, remittance, advice of credit or authorization to charge, and, in cases where the item is received for deposit as well as for payment, also includes the making of appropriate entries to the receiving bank’s general ledger without regard to whether the item is posted to individual customers’ ledgers.
AN ACT to amend and reenact section two, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the term, compensation, oath and bond of the commissioner of banking, the deputy commissioner of banking, bank examiners and assistant bank examiners.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section 2. Terms; compensation; oath; bond.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, 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 2. Terms; Compensation; Oath; Bond.—The commissioner of banking shall be appointed for a term of four years and until his successor is appointed and qualifies. The deputy commissioner, bank examiners and assistants shall not be appointed for fixed and definite terms. The commissioner of banking shall receive a salary of six thousand dollars a year; the deputy commissioner a salary not to exceed four thousand five hundred dollars a year; each bank examiner a salary not to exceed four thousand two hundred dollars a year; and each assistant bank examiner a salary not to exceed four thousand dollars a year. In addition to such salary, each of said officers shall be reimbursed for all moneys paid out by him as necessary expenses in the performance of his official duties. Each salary shall be payable in monthly installments.
19 The commissioner and deputy commissioner of banking and each bank examiner and assistant bank examiner, before entering upon the discharge of his duties, shall take and subscribe the oath prescribed by section five, article four of the constitution.

20 The commissioner of banking shall enter into a bond in the penalty of twenty-five thousand dollars and the deputy commissioner and each bank examiner and assistant bank examiner shall enter into a bond in the penalty of five thousand dollars, with an indemnity company as surety, conditioned for the faithful performance of his official duties. Such bonds shall be filed and recorded in the office of the secretary of state. The premiums on such bonds shall be paid out of the state treasury.

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CHAPTER 23

(House Bill No. 160—By Mr. Wilkison)

AN ACT to amend article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section eight-a, relating to photographing, photostating, microphotographing or reproducing on films, checks, documents, papers or other instruments or writings by banking institutions; permitting the introduction of such copies or reproductions as evidence before courts and administrative agencies and authorizing the destruction or other disposition of original checks, documents, papers and other records of banking institutions.

(Passed February 28, 1949; in effect from passage. Approved by the Governor.)

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section 8-a. Photographing and microphotographing bank checks and records; destruction of records.
Be it enacted by the Legislature of West Virginia:

That article eight, chapter thirty-one 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 eight-a, to read as follows:

Section 8-a. Photographing and Microphotographing Bank Checks and Records; Destruction of Records.—Any banking institution transacting business in this state may cause to be copied or reproduced by any photographic, photostatic, microphotographic or other miniature photographic process, all or any number of its checks, and all or any part of its documents, books, records, correspondence and all other instruments, papers and writings, in any manner relating to the operation of its business, other than its notes, bonds, mortgages and other securities and investments, and may substitute such copies or reproductions either in positive or negative form for the original thereof. Thereafter, such copy or reproduction, in the form of a positive print thereof, shall be deemed for all purposes to be an original counterpart of and shall have the same force and effect as the original thereof and shall be admissible in evidence in all courts and administrative agencies in this state, to the same extent, and for the same purposes as the original thereof, and the banking institution may destroy or otherwise dispose of the original: Provided, however, That no banking institution shall destroy or otherwise dispose of its records of final entry, including cards used under the card system and deposit tickets for deposits made, for a period of at least six years from the date of the last entry on such books or the date of making of such deposit tickets and card records, or, in the case of a banking institution exercising trust or fiduciary powers, until the expiration of six years from the date of termination of any trust or fiduciary relationship by the allowance of a final accounting, release, court decree or other proper means of termination.

All circumstances surrounding the making or issuance of such checks, documents, records, instruments or writings, or the photographic, photostatic or microphotographic reproduction thereof, when the same are offered in
evidence, may be shown to affect the weight, but not
the admissibility thereof.

Any device used to copy or reproduce such documents
and records shall be one which correctly and accurately
reproduces the original thereof in all details and film
used therein shall be of durable material.

CHAPTER 24

(House Bill No. 159—By Mr. Wilkison)

AN ACT to amend and reenact section fifteen, article eight,
chapter thirty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the
annual meeting of stockholders of banking institutions;
preparation and submission to stockholders of statements
of the financial condition of banking institutions; the ap-
pointment by stockholders of an examining committee and
prescribing the duties of such committee.

[Passed February 28, 1949; in effect ninety days from passage. Approved by the
Governor.]

Article 8. Business Operations and Supervision of Banking In-
stitutions, Industrial Loan Companies and Building and Loan
Associations.

Section
15. Annual meeting; financial statement; examining committee; ap-
pointment, duties and report.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article eight, 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 15. Annual Meeting; Financial Statement;
Examing Committee; Appointment, Duties and Report.
—The stockholders of each banking institution shall meet
annually and at such annual meeting it shall be the duty
of the cashier or other executive officer of such banking
institution to prepare and submit to the stockholders a
clear and concise statement of the financial condition of
the corporation as of the close of business on the last day
of the month next preceding. At such meeting, the
stockholders present in person or by proxy shall, by
majority vote, elect an examining committee composed
of not less than three nor more than five persons, each
of whom shall be a stockholder in such banking institu-
tion. At such time or times as it may be directed to do
so by the written request of the commissioner of bank-
ing, such committee shall immediately proceed to exam-
ine the condition of the bank and, upon completion of
such examination, shall file its report in writing with the
board of directors. Such report shall set forth in detail
all items included in the assets of the bank which the
committee has reason to believe are not of the value at
which they appear on the books and records of the bank.
and shall give the value of each of such items according
to its judgment. The board shall cause such report to
be recorded in the minute books of the bank and shall
transmit a duly authenticated copy thereof to the com-
missioner of banking. Should such committee deem it
advisable, it may, with the consent and approval of the
board of directors, employ competent accountants or audi-
tors to make such examination or, if directed by the com-
missioner of banking, shall make the same in conjunction
with the regular examination of the banking department.
The examiners of the banking department may require
the presence of the examining committee or the executive
committee during their examination.

CHAPTER 25

(House Bill No. 44—By Mr. Loop)

AN ACT to amend and reenact sections one, six, nineteen and
twenty, article ten, all of chapter thirty-one of the code of
West Virginia, one thousand nine hundred thirty-one, re-
lating to credit unions.
Article 10. Credit Unions.

Section
1. Credit unions, who may form; agreement; by-laws, charter, approved by commissioner of banking, filing, certificate of authority; form of incorporation and by-laws prescribed by commissioner of banking.
6. Supervision by and reports to commissioner of banking; examinations.
19. Security for loans to members; application for loan by members of credit committee; illegal to loan to non-members.
20. Reserve fund, of what constituted; increase or decrease.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Credit Unions, Who May Form; Agreement;
By-Laws, Charter, Approval by Commissioner of Banking, Filing, Certificate of Authority; Form of Incorporation and By-Laws Prescribed by Commissioner of Banking.—Any eight persons, residents of the state of West Virginia and having a common bond of occupation or association, may apply to the secretary of state for permission to organize a credit union. A credit union shall be organized in the following manner:
(a) The applicants shall execute in duplicate an incorporation agreement by the terms of which they agree to be bound. The agreement shall state:
(1) The name of the proposed credit union;
(2) The post-office address of its principal office or place of business;
(3) The names and post-office addresses of the incorporators, and the number of shares subscribed by each;
(4) The total number of shares of stock which the credit union shall have authority to issue and the par value of each share, which par value shall not exceed ten dollars.
(b) The applicants shall then prepare and adopt by-laws for the general government of the credit union con-
consistent with the provisions of this article and execute the same in duplicate. The by-laws shall specify:

(1) The date of the annual meeting, which shall be in January of each calendar year, requirements as to notice and manner of conducting such meeting;

(2) The number of directors, which shall be not less than five, all of whom must be shareholders and members of the credit union, their powers and duties; and the compensation and duties of all officers;

(3) The conditions and qualifications for membership;

(4) The number of members of the credit committee and of the supervisory committee, with their respective powers and duties;

(5) The conditions upon which shares may be issued, transferred and withdrawn;

(6) The charges, if any, to be made for failure to meet obligations punctually;

(7) The conditions upon which deposits may be received and withdrawn, and whether the credit union shall have the power to borrow;

(8) The manner in which the funds of the credit union shall be invested;

(9) The conditions upon which loans may be made and repaid;

(10) The method of receipting for money paid in on account of shares, deposits and loans;

(11) The manner in which the reserve fund shall be accumulated;

(12) The manner in which dividends shall be determined and paid out.

(c) The agreement and by-laws, both executed in duplicate, shall be forwarded to the secretary of state;

(d) The secretary of state, within thirty days after the receipt of such agreement, shall determine whether it conforms to the provisions of this article, and whether or not the organization of the credit union in question would benefit the organizers of it, and be consistent with the purposes of this article;

(e) Thereupon the secretary of state shall notify the applicants of his decision. If it is favorable, he shall issue
a charter, attach the charter to the duplicate of the agree-
ment and return the same, together with the duplicate of
the by-laws to the applicants: Provided, however, That
the secretary of state shall issue no charter to any credit
union to do business in this state until such incorporation
agreement and by-laws have been approved in writing by
the commissioner of banking;
(f) The applicants shall thereupon file such charter in
the office of the clerk of the county court of the county in
which the principal office of the credit union is to be
located, and such clerk shall record such charters, the
usual fees to be charged for such recordation;
(g) When any credit union authorized by this article
desires to begin business, it must notify the commissioner
of banking, who shall at his earliest convenience make
an examination of its affairs. Having satisfied himself
that all the conditions precedent have in good faith been
complied with, said commissioner shall then issue to such
credit union, under his hand, and official seal, a certifi-
cate of authority reciting that such examination has been
made and that the credit union is authorized to commence
business, which certificate shall be displayed in the busi-
ess place of such credit union. But the commissioner
may withhold from any credit union his certificate au-
thorizing the commencement of business whenever he has
reason to suppose that the members have formed the same
for any other than the legitimate objects contemplated in
this article.

In order to simplify the organization of credit unions,
the commissioner of banking shall cause to be prepared
an approved form of incorporation agreement and form of
by-laws consistent with this article, which may be used
by credit union incorporators for their guidance and, upon
written request of any resident of the state of West Vir-
ginia, the commissioner of banking shall supply such resi-
dent with two blank incorporation agreements and two
copies of such form of suggested by-laws free of charge.

Sec. 6. Supervision by and Reports to Commissioner of
Banking; Examinations.—Credit unions shall be under
the supervision of the commissioner of banking. They
shall report to him at least semi-annually on or before
the first day of January and the first day of July of
each calendar year, on blanks supplied by the said
commissioner for that purpose. Additional reports
may be required by said commissioner. Credit unions
shall be examined annually by the commissioner of
banking, except that, if a credit union has assets of
less than twenty-five thousand dollars, he may accept
the audit of a certified public accountant in place of such
examination. The fee for such examination shall be ten
dollars for credit unions with assets less than five thousand
dollars; fifteen dollars for credit unions with assets of
more than five thousand dollars but less than twenty-five
thousand dollars; twenty-five dollars for credit unions
with assets of more than twenty-five thousand dollars but
less than fifty thousand dollars; thirty-five dollars for
credit unions with assets of more than fifty thousand
dollars but less than one hundred thousand dollars; and
fifty dollars for credit unions with assets of over one hun-
dred thousand dollars.

Sec. 19. Security for Loans to Members; Application for
Loan by Members of Credit Committee; Illegal to Loan
to Non-Members.—As provided in section eighteen of this
article, a credit union may loan to its members for such
purposes and upon such security and terms as the by-
laws shall provide and the credit committee shall approve;
but security must be taken for any loan in excess of three
hundred dollars. Endorsement of a note or assignment of
shares in any credit union shall be deemed security with-
in the meaning of this section.
A member who needs funds with which to purchase
necessary supplies for growing crops may receive a loan
in fixed monthly installments instead of in one sum.
If any member of the credit committee makes applica-
tion to borrow money from a credit union or becomes
surety for any other member whose application for a loan
is under consideration, the supervisory committee shall
appoint a substitute to act on the credit committee in the
place of such member, during the consideration of such
application. All officers and members of any committee
in any way knowingly permitting or participating in
making a loan of funds of a credit union to a non-member thereof shall be guilty of a misdemeanor. The credit union shall have the right to recover the amount of any such illegal loan from the borrower or from any officer or member of a committee who knowingly committed or participated in the making thereof, or from all of them jointly.

A borrower may repay the whole or any part of his loan on any day on which the office of the corporation is open for the transaction of business.

Sec. 20. Reserve Fund, of What Constituted; Increase or Decrease.—All entrance fees, transfer fees and charges shall, after the payment of organization expenses, be known as reserve income, and shall be added to the reserve fund of the corporation. At the close of each fiscal year there shall be set apart to the reserve fund ten per cent of the net income of the corporation which has accumulated during the year. But upon the recommendation of the board of directors, the members at an annual meeting may increase, and whenever such funds equal twenty per cent of the capital, may decrease, the proportion of profits which is required by this section to be set apart to the reserve fund.

The reserve fund shall belong to the corporation and shall be held to meet contingencies, and shall not be distributed to the members, except upon dissolution of the corporation.

All acts or parts of acts in conflict herewith are hereby repealed.

AN ACT to amend and reenact section three-a, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one. as amended, relating to powers with respect to construction of sewers, etc.

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

Be it enacted by the Legislature of West Virginia:

That section three-a, article one, 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 3-a. Powers with Respect to Construction of Sewers, etc.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to install, construct, repair, maintain and operate water works, water mains, sewer lines and sewage disposal plants in connection therewith within their respective counties: Provided, That the county court of Webster is authorized to expend county funds in the opening of, and upkeep of, a sulphur well now situate on county property: Provided, That such authority and power as herein conferred upon county courts shall not extend into the territory within any municipal corporation: Provided, however, That any county court is hereby authorized to enter into contracts or agreements with any municipality within the county, or with a municipality in an adjoining county, with reference to the exercise of the powers vested in such court by this section.

CHAPTER 27

A BILL 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 further amended by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, and as last amended and reenacted by chapter forty-five, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to compensation of county commissioners for services other than services in court.

(Passed March 12, 1949; in effect 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 further amended by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, and as last amended and reenacted by chapter forty five, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 arrange for the feeding and care of the prisoners therein, 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 maintenance and operation of airport or airports owned and/or operated by the county court; and to supervise and control the purchase, erection and maintenance of airport facilities; 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, for supervising and
controlling the maintenance and operation of airport or
airports owned and/or operated by the county court;
and supervising and controlling the purchase, erection
and maintenance of airport facilities; 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 as-
sessors and county courts as boards of review and equali-
zation; for reviewing and equalizing the assessments
made by the assessors; for inspecting and reviewing 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 the general
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), in-
clusive.

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

Sec. 5-(2). Berkeley County.—For the county of Berke-
y, 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 Braxton, sixty dollars per month.

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

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

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

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

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

Sec. 5-(10). Fayette County.—For the county of Fayette, the president of the court two hundred twenty-five dollars and the other members of the court two hundred dollars.

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

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

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

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

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

Sec. 5-(19). Jefferson County.—For the county of Jefferson, fifty dollars per month.
Sec. 5-(20). Kanawha County.—For the county of Kanawha, three 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, one hundred twenty-five dollars per month.

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

Sec. 5-(24). Marion County.—For the county of Marion, the president of the county court two hundred fifty dollars and the other members of the court two hundred twenty-five 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 seventy-five dollars per month.

Sec. 5-(31). Morgan County.—For the county of Morgan, fifty 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, fifty 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, seventy-five 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, thirty 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.

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**CHAPTER 28**

*(House Bill No. 172—By Mr. Isaacs)*

AN ACT to amend and reenact section two, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-five, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to rewards and detection of crime; bounties.

[Passed February 23, 1949; in effect ninety days from passage. Approved by the Governor.]

**Article 4. Prosecuting Attorney, Rewards and Legal Advice.**

**Section 2.** Rewards and detection of crime; bounties.

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

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

**Section 2. *Rewards and Detection of Crime; Bounties.*—**

2 The prosecuting attorney of any county, with the approval
of the county court, or of the governor, or of the court of
the county vested with authority to try criminal offenses,
or of the judge thereof in vacation, may, within his dis-
cretion, offer rewards for the apprehension of persons
charged with crime, or may expend money for the detec-
tion of crime. Any money expended under this section
shall, when approved by the prosecuting attorney, be paid
out of the county fund, in the same manner as other coun-
ty expenses are paid. The county court may also offer
reasonable bounties and rewards for the destruction of
noxious animals, birds of prey, or weeds in the county,
payable out of the county treasury: Provided, however.
That nothing herein shall permit or give to the prosecut-
ing attorney of any county, having a population according
to the last official census of sixty thousand or less, the
right to appoint a full-time investigator or detector of
crime, or to expend any money for the investigation of
any crime committed in his county beyond the actual
expense of the investigation of said crime, except in the
counties of Wayne and Wyoming, the prosecuting attor-
ney with the consent of the circuit judge and the county
court therein, may appoint an investigator of crime to be
paid an annual salary of not less than one thousand two
hundred dollars nor more than two thousand four hundred
dollars, and actual expenses, the salary to be fixed within
these limits by the county court; except further in the
county of Lincoln, the prosecuting attorney may appoint
an investigator of crime to be paid an annual salary of not
less than one thousand two hundred dollars nor more than
two thousand four hundred dollars, and actual expenses,
the salary within these limits to be fixed by the prosecut-
ing attorney; except further in the county of Mason, the
prosecuting attorney with the consent of the county court
or the circuit judge, may appoint an investigator of crime
to be paid a salary of not less than six hundred dollars
nor more than two thousand four hundred dollars and
actual expenses, the salary to be fixed within these limits
by the county court.
CHAPTER 29
(Com. Sub. for House Bill No. 115—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact section one, sections one-(one) to one-(fifty-five), inclusive; section two, sections two-(one) to two-(fifty-two), inclusive; section three, sections three-(one) to three-(fifty-two), inclusive, and section four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and as last amended by chapter forty-six and chapter forty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to salaries of sheriff, county clerk and circuit clerk.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section 1. Salaries of sheriffs.

1-(1) to 1-(55). Salaries of sheriffs of the various counties of the state.

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.

Be it enacted by the Legislature of West Virginia:

That section one, sections one-(one) to one-(fifty-five), inclusive; section two, sections two-(one) to two-(fifty-two), inclusive; and section three, sections three-(one) to three-(fifty-two), inclusive, and section four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. Salaries of Sheriffs.—The annual compensation of the sheriff of each county shall on and after January first, one thousand nine hundred fifty-three, 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, 2 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, 2 three thousand six hundred dollars.

Sec. 1-(4) Braxton County.—For the county of Braxton, 2 four thousand dollars.

Sec. 1-(5) Brooke County.—For the county of Brooke, 2 three thousand six hundred dollars.

Sec. 1-(6) Cabell County.—For the county of Cabell, 2 seven thousand five hundred dollars.

Sec. 1-(7) Calhoun County.—For the county of Calhoun, 2 two thousand dollars.

Sec. 1-(8) Clay County.—For the county of Clay, two 2 thousand dollars.

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

Sec. 1-(10) Fayette County.—For the county of Fayette, 2 seven thousand five hundred dollars.

Sec. 1-(11) Gilmer County.—For the county of Gilmer, 2 two thousand four hundred dollars.

Sec. 1-(12) Grant County.—For the county of Grant, 2 two thousand dollars.

Sec. 1-(13) Greenbrier County.—For the county of 2 Greenbrier, three thousand two hundred dollars.

Sec. 1-(14) Hampshire County.—For the county of 2 Hampshire, two thousand seven hundred dollars.

Sec. 1-(15) Hancock County.—For the county of Han- 2 cock, three thousand eight hundred dollars.

Sec. 1-(16) Hardy County.—For the county of Hardy, 2 two thousand 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, three 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 six hundred 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, three 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 six hundred 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, not less than one thousand five hundred dollars nor more than two thousand dollars, to be fixed by the county court.

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

Sec. 1-(54) Wood County.—For the county of Wood, five thousand dollars.

Sec. 1-(55) Wyoming County.—For the county of Wyoming, five thousand five hundred dollars.

Sec. 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, three thousand dollars.

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

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

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

Sec. 2-(6) Cabell County.—For the county of Cabell, six 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 two hundred dollars.

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

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

Sec. 2-(15) Harrison County.—For the county of Harrison, five 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 eight hundred dollars.

Sec. 2-(20) Lincoln County.—For the county of Lincoln, three thousand six 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, five thousand two 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, three thousand dollars.

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

Sec. 2-(28) Mingo County.—For the county of Mingo, four thousand eight hundred dollars.

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

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

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

Sec. 2-(38) Raleigh County.—For the county of Raleigh, four thousand eight hundred dollars.
Sec. 2-(39) Randolph County.—For the county of Randolph, three thousand four 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 six 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 four hundred 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, two thousand eight hundred dollars.

Sec. 2-(47) Wayne County.—For the county of Wayne, three thousand three hundred 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 eight hundred dollars.

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

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

Sec. 3. Salaries of Circuit Clerks.—The annual compensation of the clerk of the circuit court (or clerk of 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 eight hundred dollars.

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

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

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

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

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

Sec. 3-(14) Hancock County.—For the county of Hancock, three thousand two hundred fifty dollars.
Sec. 3- (15) Harrison County.—For the county of Harrison, five 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, three thousand 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 five hundred dollars.

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

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

Sec. 3- (28) Mingo County.—For the county of Mingo, four thousand eight hundred dollars.

Sec. 3- (29) Monongalia County.—For the county of Monongalia, four thousand dollars.

Sec. 3- (30) Monroe County.—For the county of Monroe, one thousand three hundred twenty dollars.
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Sec. 3-(31) Morgan County.—For the county of Morgan, two thousand four hundred dollars.

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

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

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

Sec. 3-(51) Wood County.—For the county of Wood, four thousand five hundred dollars.

Sec. 3-(52) Wyoming County.—For the county of Wyoming, four thousand two 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 the clerk of the circuit court are held by the same person shall be as follows: Hardy county, two thousand six hundred dollars; Grant county, two thousand five hundred dollars; Pendleton county, two thousand four hundred dollars.

CHAPTER 30
(Com. Sub. for Senate Bill No. 6—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 forty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 county, three, and 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 the 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 salary of such assistant shall not be less than one thousand two hundred dollars nor more than one thou-
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29 sand eight hundred dollars; in Ohio county for the first
30 assistant, three thousand six hundred dollars, for the sec-
31 ond assistant three thousand dollars and for the third as-
32 sistant two thousand dollars; in Kanawha county for the
33 first assistant, not less than five thousand nor more than
34 six thousand dollars, and for the second assistant not less
35 than five thousand nor more than six thousand dollars; in
36 Cabell county for the first assistant four thousand dollars,
37 and for the second assistant three thousand dollars; in
38 McDowell county, not less than three thousand dollars
39 nor more than three thousand six hundred dollars for each
40 assistant; in Marion county, not less than three thousand
41 six hundred nor more than four thousand two hundred
dollars; in Raleigh county, four thousand two hundred dol-
42 lars; in Mingo county, not to exceed four thousand dollars;
43 in Harrison county, not less than one thousand five hun-
44 dred nor more than four thousand five hundred dollars; in
45 Mercer county, four thousand two hundred dollars; in
46 Summers and Wood counties, not less than one thousand
47 nor more than two thousand dollars; in Logan county, not
48 less than three thousand dollars nor more than three thou-
49 sand six hundred dollars; in Fayette county for the first as-
50 sistant, not less than three thousand six hundred nor more
51 than four thousand two hundred dollars, and for the sec-
52 ond assistant not to exceed two thousand eight hundred
dollars; in Boone and Wyoming counties, not less than one
53 thousand two hundred nor more than two thousand four
54 hundred dollars; in Barbour county, one thousand dollars;
55 in Monongalia county, three thousand dollars; in Wayne
56 county, two thousand five hundred dollars; in Berkeley
57 and Lincoln counties, not to exceed one thousand eight
58 hundred dollars; in Lewis, Marshall, Mineral, Nicholas and
59 Upshur counties, not to exceed twelve hundred dollars,
60 and in Randolph county not to exceed two thousand four
61 hundred dollars; in Webster and Wetzel counties, not less
62 than six hundred nor more than nine hundred dollars; in
63 Taylor county, not to exceed six hundred dollars; in Put-
64 nam county, one thousand two hundred dollars; and Cal-
65 houn county, three hundred dollars. In each case such com-
66 pensation shall include the compensation provided by law
67 for such assistant's services as attorney for boards of edu-
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, 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, Cabell, Wayne and Fayette and including Greenbrier, Hampshire, Pocahontas, Putnam, Ritchie 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, Pocahontas and Taylor counties shall not exceed one thousand two hundred dollars; in Calhoun, Putnam and Upshur counties, shall not exceed nine hundred dollars; in Hampshire and Ritchie counties shall not be less than one thousand dollars nor more than twelve hundred dollars; in Berkeley and Lewis counties, shall not be less than six hundred dollars, nor exceed one thousand five hundred dollars; in Monongalia county, shall be two thousand one 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 Gilmer county, shall not exceed nine hundred dollars: Provided, That in each of the last two 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 Jefferson the prosecuting attorney may
employ a stenographer for his office at a salary of not more
than one thousand dollars per annum, payable out of the
county treasury to be fixed by the said prosecuting at-
torney of said county of Jefferson.

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
two thousand dollars per annum, payable out of the
county treasury.

In the county of Cabell the prosecuting attorney may
employ two stenographers for his office, one at a salary of
two thousand four hundred dollars per year and one at
a salary of one thousand two hundred dollars per year,
payable out of the county treasury.

In the county of Clay, the prosecuting attorney may em-
ploy 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 lieu of the appoint-
ment of such clerk or stenographer, the prosecuting attor-
ney may employ a practicing attorney of said county as
his assistant at a salary of not less than one thousand nor
more than one thousand five hundred dollars per annum,
payable out of the county treasury.

In the counties of Mingo and Preston, the prosecuting at-
torney may employ one stenographer for his office at a
salary not to exceed three thousand six 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 salary
of not to exceed nine 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 at-
torney may employ one stenographer or clerk for his of-

lars per annum, payable out of the county treasury as
salaries of county officials are paid.

In the county of 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 coun-
ty, and in the counties of Mason and Roane the prosecuting
attorney may employ one stenographer at a salary of not
less than eleven hundred dollars nor more than fifteen
hundred dollars per annum, 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 three
thousand 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 Wayne, the prosecuting attorney may
employ one stenographer at a salary of not less than twenty-
four hundred dollars nor more than twenty-seven hun-
dred dollars per annum, to be fixed by the county court
and payable out of the treasury of the 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 per annum and not more
than two thousand dollars per annum 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.

The prosecuting attorney may employ a clerk or a
stenographer for his office in the counties of Tyler,
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Wetzel and Marshall at an annual salary not to exceed the following: In the county of Tyler, nine hundred dollars; in the county of Wetzel, eighteen hundred dollars; in the county of Marshall, eighteen hundred dollars, payable out of the treasury of the respective counties.

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

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

In the county of Marion, the prosecuting attorney may employ one stenographer at a salary not to exceed two thousand four hundred dollars per annum, payable out of the county treasury.

In the county of Raleigh, the prosecuting attorney may employ one stenographer at a salary not to exceed three thousand dollars per annum, payable out of the county treasury.

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

CHAPTER 31

(Senate Bill No. 101—By Mr. Love)

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 of expenses by county courts to sheriffs and their deputies.

[Passed February 28, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section
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 shall allow the actual and necessary expenses incurred or expended by the sheriff in arresting, pursuing, or transporting persons accused or convicted of crimes and offenses, including the cost of law enforcement and safety equipment, 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 shall allow the actual and necessary expenses incurred or expended in serving summonses, notices, or other official papers in connection with the sheriff’s office, including an allowance of seven cents per mile for each mile a sheriff or deputy sheriff is required to drive his personally owned car in the performance of his duties hereunder. Every sheriff shall file monthly, under oath, a full and accurate account of all his actual and necessary expenses mentioned in this section, supported by verified accounts for his deputies for amounts expended or incurred by each, before payment thereof shall be allowed by the county court.

CHAPTER 32

(Senate Bill No. 200—By Mr. Bean)

AN ACT to amend and reenact section four, article seven, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to official court reporters.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 4. Transcript of notes; fee; authenticity; transcript for judge in criminal cases.
Be it enacted by the Legislature of West Virginia:

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

Section 4. Transcript of Notes; Fee; Authenticity;

Transcript for Judge in Criminal Cases.—The reporter shall furnish, upon request, to any party to a case, a typewritten transcript of his shorthand notes of the testimony or other proceedings, and shall certify the same as being correct, and shall be paid therefor, by the party requesting such transcript, at the rate of twenty-four cents for each one hundred words so transcribed and certified; and for each carbon copy of such transcript, ordered at the same time, he shall be paid seven cents for each one hundred words so furnished.

A transcript of such testimony or proceedings, when certified by the official reporter and by the judge of the court, shall be authentic for all purposes, and shall be used by the parties to the cause in any further proceedings therein wherein the use of the same may be required. It may be used, without further authentication, in making up the record on appeal, as provided in sections thirty-six and thirty seven, article six, chapter fifty-six of the code; and in all cases of appeal such reporter shall also make a carbon copy of such transcript, which copy shall be filed in the office of the clerk of the court in which the trial or proceedings were had, to be used, if necessary, in making up the record on appeal, and, if so used, the clerk shall not be entitled to any fee for that part of the record. If, upon appeal or writ of error, the judgment, decree or order entered in the cause be reversed, the cost of such transcript shall be taxed as other costs; and if such transcript be requested or required for the purpose of demurring to the evidence, the cost thereof shall be taxed in favor of the party prevailing on the demurrer.

It shall also be the duty of such reporter in any criminal case, upon the request of the court or the judge thereof, and for his use, to furnish a transcript of his notes of the testimony and proceedings without extra charge.
AN ACT to amend and reenact section two, article eight, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia law library and the librarian.

[Passed March 11, 1949; in effect July 1, 1949. Approved by the Governor.]


Section 2. Librarian; bond; assistants; compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Librarian; Bond; Assistants; Compensation.—

2 The supreme court of appeals, or the judges thereof in vacation, shall appoint a competent librarian to have immediate custody and charge of the West Virginia law library under the direction of the court. Such librarian shall give bond in a penalty fixed by the court of not less than two nor more than five thousand dollars, with surety thereon, to be approved by the court, and conditioned as provided for official bonds. Such bond shall be deposited for safekeeping with the clerk of the court.

3 The librarian shall be an officer of the court and shall hold his office and be removable at its pleasure. Vacancies in the office of librarian occurring during a vacation of the court may be filled by appointment in writing made by the judges of the court, or any three of them.

4 When, in the opinion of the court, other employees are needed for the proper protection and use of the library, it may employ such assistants as may be necessary for that purpose. The salary of the librarian shall be four thousand two hundred dollars per annum, payable in monthly installments, and the expense of such assistants shall be fixed by the court and shall be paid upon order of the court.
CHAPTER 34

(House Bill No. 24—By Mr. Ballard, of Monroe, and Mr. File)

AN ACT to amend chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article nine, relating to the establishment and administration of a permanent retirement system for judges of courts of record of this state.

[Passed March 7, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 9. Retirement System for Judges of Courts of Record.

Section
1. Judges' retirement system.
2. Judges' retirement fund.
3. Custody, investment and administration of funds.
4. Percentage contributions from salaries.
5. Election not to contribute.
6. Eligibility for and payment of benefits.
7. Ineligibility to receive benefits.
8. Retirement and eligibility.
10. Services of retired judges.
11. Monthly payments.
12. Refunds.
14. Monies exempt from execution.
15. County commissioners excluded.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Judges' Retirement System.—There is hereby established a judges' retirement system for the purpose and to be administered as hereinafter provided.

Sec. 2. Judges' Retirement Fund.—As a part of the judges' retirement system, there is hereby created a judges' retirement fund which shall be made up of and into which shall be paid

(a) Percentage contributions from salaries of judges as provided in section four of this article;
(b) Gifts and bequests to the fund and any accretions and accumulations which may properly be paid into and become a part of the fund;

(c) Specific appropriations to the fund made by the Legislature of the state of West Virginia and by any county court or courts of the state;

(d) Interest on the investment of any part or parts of the fund;

(e) Any other monies, available and not otherwise expended, which may be appropriated or transferred to the fund.

Sec. 3. Custody, Investment and Administration of Fund.

The state treasurer shall be the custodian of the fund and of any investment securities of the retirement system and shall give a separate and additional bond for the faithful performance of his duties as such custodian. The governor shall fix the amount of said bond which shall be approved as to sufficiency and form by the attorney general and shall be filed in the office of the secretary of state. The premium on said bond shall be paid from the fund.

In a manner and to an extent consonant with sound administration principles, the board of public works shall have authority to invest said fund in interest bearing securities of the United States of America, of the state of West Virginia and of any political subdivision thereof.

The state auditor shall be the fiscal officer responsible for the records and administration of the fund, including budgetary matters incident to the authority vested in him with respect to judicial department appropriations under article six, section fifty-one of the constitution of West Virginia.

Sec. 4. Percentage Contributions from Salaries.—Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the judges' retirement fund six per cent of the salary received by him either out of the state treasury or from any county court or courts of this state, or, if his total salary as such judge be paid in part out of the state
treasury and in part by a county court or county courts, then six per cent of such total salary shall be paid into the said fund.

In drawing warrants for the salary checks of said judges, the state auditor shall deduct from the amount of each such salary check six per cent thereof, which amount so deducted shall be credited by the state treasurer to said fund. Where the salary, or any part thereof, of a judge is paid by a county court, such county court shall deduct from the amount of each such salary check six per cent of the amount thereof, which amount so deducted shall be paid by said county court into the state treasury to the credit of said fund.

Sec. 5. Election not to Contribute.—Notwithstanding any provisions of this article, any judge may in writing notify the auditor or the county court, as the case may be, within thirty days after he takes office, or, if he is in office, on the date this article becomes effective, then within thirty days from such latter date, that he elects not to make payments or contributions to the fund, in which event every judge, so electing, shall not thereafter at any time be entitled to receive any retirement pay or benefits under provisions of this article. If such notice in writing be given, any deductions theretofore made from the salary of such judge and paid into the fund shall be refunded, without interest, to him by the auditor by warrant drawn on the fund.

Sec. 6. Eligibility for and Payment of Benefits.—Except as otherwise provided in sections five, twelve and thirteen of this article, any person who is now serving, or who shall hereafter serve, as a judge of any court of record of this state and shall have served as such judge for a period of not less than sixteen full years and shall have reached the age of sixty-five years, or who has served as judge of such court or of that court and other courts of record of the state for a period of sixteen full years or more (whether continuously or not and whether said service be entirely before or after this act shall become effective, or partly before and partly after said date, and whether or not said judge shall be in
office on the date he shall be come eligible to benefits hereunder), shall, upon a determination and certification of his eligibility as provided in section nine hereof, be paid from the fund annual retirement benefits, so long as he shall live, in an amount equal to four per cent of his annual salary for the last year of his service as such judge multiplied by the total number of full years he has served as a judge of any of the courts of record of this state: Provided, however, That said annual retirement benefits shall in no case exceed the amount of fifty per cent of the annual salary received by him for the last year of his service as judge: Provided further, That said retirement benefits shall be paid only after said judge has resigned as such or, for any reason other than his impeachment, his service as such has ended: And provided further, That the provisions of this act shall apply only to those judges who are in office at the time it becomes effective, and those who shall thereafter serve as judges of the courts of record of this state.

In determining eligibility for the benefits provided by this section, any portion of the term of office of any judge of a court of record which shall have elapsed while such judge was on active duty (including leaves, furloughs, and time consumed going to his place of duty and returning to his place of residence after discharge or release from active duty) in the armed forces of the United States shall be considered as served: Provided, however, That any judge who enters active duty in the armed forces of the United States during his term of office and after the effective date of this act, shall during, or within one year after such military service, pay into the state treasury all contributions required by section four of this article, and, by reason of such military service not deducted from his salary.

Sec. 7. Ineligibility to Receive Benefits.—A judge who retires under the provisions and accepts the benefits of this article shall not, while receiving said benefits, be permitted to practice law in the courts of this state, or to hold any public office or trust for which he receives compensation. If, after retirement under the provisions
of this article and acceptance of its benefits, he shall enter the practice of law or be elected or appointed to any public office or trust for which he receives any salary or other compensation, his benefits under this article shall be suspended for such time only as he shall be engaged in the practice of law or shall occupy such office or trust.

Sec. 8. Retirement and Eligibility.—Whenever a judge of a court of record of this state, who is not disqualified from participation herein as provided in section five of this article, who shall have served for twelve full years, shall become physically or mentally incapacitated to perform the duties of his office as judge during the remainder of his term and shall make a written application to the governor for his retirement, setting forth the nature and extent of his disability and tendering his resignation as such judge upon condition that upon its acceptance he be retired with pay under the provisions of this article, the governor shall make such investigation as he shall deem advisable and, if he shall determine that such disability exists and that the public service is suffering and will continue to suffer by reason of such disability, he shall thereupon accept the resignation and, by written order filed in the office of the secretary of the state, direct the retirement of the judge for the unexpired portion of the term for which such judge was elected or appointed. The secretary of state shall thereupon file a certified copy of said order with the state auditor. When so accepted, said resignation shall create a vacancy in said office of judge, which shall be filled by appointment or election as provided by law. The retired judge shall thereupon be paid annual retirement pay during the remainder of his unexpired term in an amount equal to the annual salary he was receiving at the time of his retirement, which annual retirement pay, so long as it shall be paid to him, shall be in lieu of any and all retirement benefits such judge may otherwise have received under the provisions of this article: Provided, however, That when the payment of said retirement pay shall have terminated, such judge, even though he shall not have arrived at the
age of sixty-five years, shall, so long as the disability
determined by the governor continues to exist, be paid
the retirement benefits for which provisions is made in
section six of this article.

Sec. 9. Determination of Eligibility for Benefits.—Be-
fore any person shall be entitled to retirement benefits
under the provisions hereof, he shall submit proof of his
eligibility for such benefits to the governor, and if such
director be then in office, he shall at the same time tender
to the governor his resignation as judge upon condition
that, if such resignation be accepted, he be paid retire-
ment benefits as herein provided. Thereupon the gov-
ernor shall make such investigation as he shall deem
advisable and, if the governor shall determine that such
person is entitled to retirement benefits under the pro-
visions hereof, the governor shall accept the resignation
and certify said facts and the amount of retirement
benefits to be paid to said retired judge by a written
order to be filed in the office of the secretary of state.
The secretary of state shall thereupon file a certified
copy of said order with the state auditor. The resignation
so accepted shall create a vacancy in said office of judge
which shall be filled by appointment or election as

Sec. 10. Services of Retired Judges.—Any retired judge
receiving retirement benefits under the provisions hereof
shall serve as special judge of any court of record of
this state, except of the Supreme Court of Appeals, when
such retired judge is selected according to law to serve
as such special judge in any such court of record, without
charge or compensation, per diem or otherwise to him,
but shall be allowed and paid his traveling expenses and
other actual expenses for lodging and meals in the same
manner and amounts as such expenses of judges are paid
as now or hereafter may be provided for by statute.

Sec. 11. Monthly Payments.—The retirement benefits
and retirement pay, as herein provided, shall be paid in
equal monthly installments upon the warrant of the state
auditor drawn on the judges’ retirement fund. If at any
time monies in said fund are insufficient to meet the orderly requirements of the retirement system, payments hereunder shall then be made from funds in the state treasury appropriated and otherwise available for such purposes.

Sec. 12. *Refunds.*—Any judge of a court of record of this state whose services have terminated, otherwise than by retirement under provisions of this act, shall, upon his written demand or the written demand of his personal representative filed with the state auditor, by a proper warrant of the state auditor drawn on the fund, be refunded, without interest, any and all money paid by or for said judge into the fund. Such repayment shall terminate all rights of said judge to participate thereafter at any time in the benefits and pay of the retirement system, without prejudice, however, to his right to re-enter the system after a subsequent appointment or election to a qualified judgeship, but without credit for any prior years of service.

Sec. 13. *Disqualification for Pay and Benefits.*—No judge of a court of record of this state, who has become physically incapacitated to perform the duties of his office as judge and who has remained so for one year without making application for retirement and submitting his resignation as provided in section eight hereof, shall be entitled to retirement pay or retirement benefits under the provisions of any section of this article.

Sec. 14. *Monies Exempt from Execution.*—The monies in the judges’ retirement fund, the right of any judge to participate in the pay and benefits of the retirement system and the right of any judge to a refund of payments or contributions made to the fund shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable and nontransferable.

Sec. 15. *County Commissioners Excluded.*—Commissioners of county courts, or of any tribunal established in lieu thereof, are excluded from the retirement pay and retirement benefits herein provided.
Sec. 16. Provisions Severable.—The provisions of this article are declared to be severable and if any provision or provisions hereof shall be held to be unconstitutional, such holding shall not affect the validity of the remaining provisions.

CHAPTER 35
(Senate Bill No. 117—By Mr. Amos)

AN ACT to amend and reenact section fifteen, article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to pecuniary interest of county and district officers, teachers, and school officials in contracts; offering and giving compensation; and providing penalties therefor.

[Passed March 3, 1949; in effect from passage. Approved by the Governor.]

Article 10. Crimes Against Public Policy.

Section 15. Pecuniary interest of county and district officers, teachers and school officials in contracts; offering or giving compensation; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 15. Pecuniary Interest of County and District Officers, Teachers and School Officials in Contracts; Offering or Giving Compensation; Penalties.—It shall be unlawful for any member of a county court, overseer of the poor, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools, or any member of any other county or district board, or for any county or district officer to be or become directly or indirectly, pecuniarily interested in the proceeds of any contract or service, or in furnishing any supplies in the contract for, or the
awarding or letting of, which as such member, officer, secretary, supervisor, superintendent, principal, or teacher, he may have any voice, influence or control. Any person or officer named who shall violate any of the foregoing provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than fifty nor more than five hundred dollars, and may, in the discretion of the court, be imprisoned for a period not to exceed one year. In addition to the foregoing penalties, any such officer shall be removed from his office and the certificate or certificates of any teacher, principal, supervisor or superintendent who violates the provisions of this section shall, upon conviction thereof, be revoked immediately. Any person, firm or corporation that offers or gives any compensation whatever to any of the officers or persons hereinbefore named or to any other person with the intent to secure the influence, support or vote of such officer or person for any contract, service, award or other matter as to which any county or school district shall become the paymaster, shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than five hundred, nor more than twenty-five hundred dollars, and, at the discretion of the court, such person or any member of such firm, or, if it be a corporation, any agent or officer thereof, so offering or giving such compensation, may, in addition to such fine, be imprisoned for a period not to exceed one year. The provisions of this section shall not apply to publications in newspapers required to be made by law.

CHAPTER 36
(Com. Sub. for Senate Bill No. 9—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section three, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to selection of jury in felony cases; striking jurors; and providing for alternate jurors.
Article 3. Trial of Criminal Cases.

Section 3. Selection of jury in felony cases; striking jurors; alternate jurors.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Selection of Jury in Felony Cases; Striking Jurors; Alternate Jurors.—In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of the accused. If a sufficient number of jurors for such panel can not be procured in this way, the court shall order others to be forthwith summoned and selected, until a panel of twenty jurors, free from exception, be completed, from which panel the accused may strike off six jurors and the prosecuting attorney may strike off two jurors. The prosecuting attorney shall first strike off two jurors, and then the accused six. If the accused failed to strike from such panel the number of jurors this section allows him to strike, the number not stricken off by him shall be stricken off by the prosecuting attorney, so as to reduce the panel to twelve, who shall compose the jury for the trial of the case.

Whenever, in the opinion of the court the trial is likely to be a protracted one, the court may direct that not more than four jurors, in addition to the regular jury, be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Each side is
entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impanelled, and two peremptory challenges if three or four alternate jurors are to be impanelled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by this section may not be used against an alternate juror.

CHAPTER 37
(House Bill No. 228—By Mr. Schupbach and Mr. Roach)

AN ACT to amend and reenact section three, article seven, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the execution of sentence of death.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 7. Execution of Sentences; Stays.

Section
3. Execution of death sentence.

Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter sixty-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. Execution of Death Sentence.—Sentence of death, except for insurrection or rebellion, shall not be executed sooner than thirty days after the sentence is pronounced. The sentence of death shall, in every case, be executed by electrocution of the convict until he is dead: Provided, however, That as to all capital punishment crimes committed prior to the effective date of this act, the law with reference to the execution of the death penalty, in such cases, shall be by the method provided by law immediately prior to the enactment of this statute. Such punishment shall be executed within the walls of the
West Virginia penitentiary and not elsewhere, and within an enclosure to be prepared for that purpose, under the direction of the warden of the penitentiary and the authori-
ties in control thereof, which enclosure shall be so con-
structed as to exclude public view; and the warden of the West Virginia penitentiary, or, in case of his death, absence or inability to act, a deputy warden, shall be the execution-
er; and for his services in executing such sentence, the said warden, or deputy warden, shall receive the sum of twenty-five dollars, to be paid out of any fund on hand appro-
 priated for the maintenance and support of the West Vir-
ginia penitentiary.

CHAPTER 38
(Senate Bill No. 113—By Mr. Sinsel and Mr. Love)

AN ACT to amend and reenact section five, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as heretofore amended, reenacted and added to by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to probation and the appointment and fixing of salaries of court or county probation officers, assistant court or county probation officers and clerical assistants, by judges of courts having authority to place off-
fenders on probation.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 5. Probation officers.

Be it enacted by the Legislature of West Virginia:

That section five, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as heretofore amended, reenacted and added to by chapter twenty-seven, acts of the Legislature, regular session, one thousand
nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 5. **Probation Officers.**—The judge of any court actively exercising jurisdiction in criminal cases and having authority to place offenders on probation is authorized to appoint a court or county probation officer and a clerical assistant to serve during the pleasure of the appointing judge, and in addition in counties having a population of more than one hundred fifty thousand, such judge is authorized to appoint an assistant court or county probation officer: **Provided,** That the appointing judge shall first obtain the approval of the county court or the county courts in his judicial circuit of the expenses to be incurred and the salary or salaries to be paid the court or county probation officer and clerical assistants, which approval shall be discretionary with said county court or courts and shall be required before any appointment made hereunder becomes effective.

The appointment of a court or county probation officer, assistant court or county probation officer and clerical assistant shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of said order of appointment shall be delivered to the county court of the county in which said court or county probation officer, assistant court or county probation officer and clerical assistant shall serve. The said order of appointment shall state the monthly salary fixed by said judge, to be paid the court or county probation officer, assistant court or county probation officer or clerical assistant so appointed. A court or county probation officer shall receive for his services a monthly salary of not less than two hundred nor more than three hundred dollars per month; an assistant court or county probation officer shall receive for his services a monthly salary of not less than one hundred seventy-five and not more than two hundred and fifty dollars per month. A clerical assistant shall receive for his services not to exceed two hundred dollars per month. The county court shall make provisions for payment and pay monthly the salary of the court or county probation officer, assistant court or
county probation officer and clerical assistant as designated in the order of appointment.

The county court shall provide adequate office space, equipment and supplies for the court or county probation officer, assistant court or county probation officer and clerical assistant, to be approved by the appointing judge. The county court shall reimburse a court or county probation officer and an assistant court or county probation officer for all expenses actually and necessarily incurred in line of duty in the field.

No judge shall appoint any court or county probation officer, assistant court or county probation officer or clerical assistant who is related to him either by consanguinity or affinity.

A judge of a circuit court whose circuit comprises more than one county, having authority to appoint a court or county probation officer, may appoint a court or county probation officer and a clerical assistant in each county of such circuit, or may appoint the same person as a court or county probation officer and also the same person as a clerical assistant in two or more of such counties.

When a judge has appointed a court or county probation officer and a clerical assistant to serve in a judicial circuit including more than one county, the salary and expenses of such appointees shall be contributed by each county sharing in the services of such appointees in the proportion agreed upon by such counties, if they agree, otherwise in the proportion of the populations in the counties derived from the last United States census.

In lieu of, or in addition to, the court or county probation officers, assistant court or county probation officers and clerical assistants provided for in this section, the judge may avail himself of the services of state probation and parole officers; and any such services which may be provided to the court or judge by said state probation and parole officers, shall be rendered at no additional cost to any court or judge so using them. The director of probation and parole may assist any court or county probation officer, upon request, with information relative to procedure, printed forms, and technique applicable to probation methods.
Nothing contained in this act shall in any manner alter, modify, affect or supersede the appointment, tenure or salary of any probation officer appointed by any court under any special act of the Legislature heretofore or hereafter enacted.

CHAPTER 39
(Senate Bill No. 164—By Mr. McKown)

AN ACT to amend and reenact section nine, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to required courses of instruction in public and other schools in this state.

(Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.)

Article 2. State Board of Education.
Section 9. Required courses of instruction.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Required Courses of Instruction.—In all public, private, parochial and denominational schools located within this state there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the state of West Virginia. Such schools shall also give regular courses of instruction in history of the United States, in civics, and in the constitutions of the United States and of the state of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the state of West Virginia. The state board of educa-
tion shall, with the advice of the state superintendent of schools, prescribe the courses of study covering these subjects for the public elementary and grammar schools, public high schools and state normal schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools.

The state board of education shall cause to be taught in all of the public schools of this state the subject of scientific temperance, including the nature of alcoholic drinks and narcotics, with special instruction as to their effect upon the human system and upon society in general; and the textbooks on the subjects of health and hygiene, biology and the social sciences, adopted for use in the public schools of the state, shall contain appropriate material for such teaching.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, thereof, shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. If the person so convicted occupy a position in connection with the public schools, he shall also automatically be removed from such position, and shall be ineligible for reappointment to that or a similar position for the period of one year.

CHAPTER 40

(Com. Sub. for Senate Bill No. 38—Originating in the Senate Committee on Education)

AN ACT to amend article two, 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 sixteen, relating to the establishment and operation of state camp and conference center for Future Farmers of America, for Future Homemakers of America, and for other educational groups.
Article 2. State Board of Education.

Section 16. Establishment and operation state camp and conference center; payment of expense; gifts and donations.

Be it enacted by the Legislature of West Virginia:

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

Section 16. Establishment and Operation of a State Camp and Conference Center; Payment of Expense; Gifts and Donations.—For the purpose of developing competent leadership, developing character, training for useful citizenship, fostering patriotism, and of providing and encouraging the development of organized recreational activities for Future Farmers of America and Future Home-makers of America members, and other youth and adult groups, a camp and conference center is hereby established.

The West Virginia board of education is hereby authorized to secure a site for such camp and conference center at some suitable place and provide the necessary buildings and equipment therefor.

Such camp and conference center shall be operated by the division of vocational education of the West Virginia board of education. Such camp and conference center may be rented for educational purposes only and the rent received therefor shall be deposited in the state treasury and paid out on requisition of the division of vocational education of the West Virginia board of education for the maintenance and operation of such camp and conference center.

Any appropriations now or hereafter made by the Legislature to carry out the provisions and purposes of this section shall be expended through the West Virginia board of education.

The West Virginia board of education is hereby authorized and empowered to receive and use such gifts and donations of money, land, buildings, materials, equipment,
30 supplies, and labor, either from public or private sources, 31 as may be offered unconditionally or under such condi- 32 tions as in the judgment of the West Virginia board of 33 education are proper and consistent with the provisions of 34 this section.
35 All the money received as gifts and donations, by the 36 West Virginia board of education shall be deposited in 37 the state treasury to be used by the said board of educa- 38 tion in establishing and maintaining the aforesaid camp 39 and conference center. A report of all gifts and donations 40 offered and accepted, together with the names of the 41 donors and the amounts contributed by each and all dis- 42 bursements therefrom shall be submitted annually to the 43 governor of the state by the West Virginia board of edu- 44 cation.

CHAPTER 41
(Senate Bill No. 51—By Mr. McKown)

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 compensa- tion of county superintendents of schools.

[Passed March 11. 1949; in effect July 1. 1949. Approved by the Governor.]

Article 4. County Superintendent of Schools.
Section

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 2 day of June of the year in which the superintendent is 3 appointed, the board shall fix the annual salary of the 4 superintendent for the period of appointment for the
term beginning on the first day of July following, but in no case shall the annual salary be less than four thousand dollars nor more than eight thousand dollars, both exclusive of state aid. The board shall pay the salary from the general current expense fund of the district.

CHAPTER 42

(Com. Sub. for Senate Bill No. 75—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section seven, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the disposal of school property and oil and gas leases.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section 7. Disposal of school property; oil and gas leases.

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 last amended, be amended and reenacted to read as follows:

Section 7. Disposal of School Property; Oil and Gas Leases.—If at any time the board shall ascertain that any building or any land no longer shall be needed for school purposes, the board may sell, dismantle, remove or relocate any such buildings and sell 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 originally 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
16 and rentals shall be placed to the credit of such fund or
17 funds of the district as the board may direct: Provided,
18 That the provisions of this section concerning sale at
19 public auction shall not apply to boards of education sell-
20 ing or disposing of its property for a public use to the state
21 of West Virginia, or its political subdivisions, including
22 county courts, for an adequate consideration without con-
23 sidering alone the present commercial or market value of
24 the property.

CHAPTER 43
(Senate Bill No. 102—By Mr. McKown)

AN ACT to amend and reenact section sixteen, article five,
chapter eighteen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
transfer of pupils; tuition; transportation and maintenance.

[Passed February 23, 1949; in effect ninety days from passage. Approved by the
Governor.]

Article 5. District 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
2 and Maintenance.—The board may divide its territory
3 into such sub-districts as are necessary to determine the
4 schools the pupils of its district shall attend. But upon
5 the written request of any parent or guardian, or person
6 legally responsible for any pupil, or for reasons affecting
7 the best interests of the schools, the superintendent may
8 transfer pupils from one school to another within the
9 district. Any aggrieved person may appeal the decision
10 of the superintendent to the board, and the decision of
11 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 twelve dollars a month, and for junior and senior high schools
shall not exceed fifteen 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 fifteen 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. Daily transportation involving a round trip of more than fifty miles shall at the election of the pupil be considered impracticable for the purpose 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 purpose 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 44

(Subtitle and Additional Text)

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 to the employment and salaries of librarians.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 5. District 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. In connection with any such school library, the board may employ a full-time librarian or may require one of the teachers at the school to serve as a part-time librarian. Any such full-time librarian or any such teacher-librarian, who holds a degree in library science based upon the successful completion of a full year of graduate work at an institution qualified and approved to offer such degree, and who holds a collegiate elementary, first-class high school, or other certificate of equal rank, shall be paid the same salary as is prescribed by law for teachers holding a master’s degree.

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.

CHAPTER 45
(House Bill No. 76—By Mr. Blankenship and Mr. White, of Cabell)

AN ACT to repeal section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend section thirty-two; article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the employment and qualifications of assistant superintendents, directors and supervisors of instruction and other educational activities, agricultural club agents.
Article 5. District Board of Education.

Section 32. Employment and qualifications of assistant superintendents, directors and supervisors of instruction and other educational activities; agricultural club agents.

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 repealed and that section thirty-two, article five of said chapter, as amended, be amended and reenacted to read as follows:

Section 32. Employment and Qualifications of Assistant Superintendents, Directors and Supervisors of Instruction and Other Educational Activities; Agricultural Club Agents.—The county board of education, upon the recommendation of the county superintendent, may employ an assistant whose term of employment shall be not less than one nor more than four years: Provided, that such term shall not extend beyond that of the incumbent county superintendent.

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

The board, upon the recommendation of the county superintendent, shall have authority to employ such general and special supervisors or directors of instruction and of such other educational activities as may be deemed necessary.

The employment of the assistant superintendent shall be on a twelve month basis. The period of employment for all others named herein shall be at the discretion of the board.

Rules and regulations for qualifications of assistant superintendents, and directors and supervisors of instruc-
tion and of other educational activities shall be fixed by
the state board of education: Provided, however, That
the qualifications required for any assistant superin-
tendent shall in no event be higher than those required
for the superintendent: Provided further, That such rules
do not affect the status of any incumbent nor his right
to succeed himself in his assigned position.
The county board of education shall have the authority
to reimburse such employees for their necessary traveling
expenses upon presentation of a monthly, itemized, sworn
statement approved by the county superintendent.
Any person employed under the foregoing provision of
this section, provided he holds a valid teacher’s certificate,
shall be given continuing contract status as a teacher and
shall hold such status unless dismissed for statutory rea-
sons.
The board may also cooperate with the extension divi-
sion of the college of agriculture in employing an agri-
cultural club agent for the organization and direction of
boys' and girls' agricultural clubs.
All acts or parts of acts inconsistent with this act are
hereby repealed.

CHAPTER 46
(House Bill No. 197—By Mr. Blankenship)

AN ACT to amend and reenact section six, article six, chapter
eighteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to payment of
pupils’ tuition in high school of another county.

[Passed February 18, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 6. High Schools.
Section
6. Payment of pupils’ tuition in high school of another county.

Be it enacted by the Legislature of West Virginia:
That section six, article six, 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 6. Payment of Pupils' Tuition in High School of Another County.—The board of a district maintaining a high school which is not accessible to all the pupils eligible to attend, shall either transport them to a high school within the district or pay their tuition fees in high schools of adjoining counties. The tuition shall not exceed fifteen dollars per month per pupil, or in any case more than the actual cost of instruction. Tuition shall not be paid for more than four years for any pupil. The district in which the pupil resides shall pay the tuition fees from its teachers' fund. No payment shall be made, however, except upon the presentment of a certificate indicating the name of the pupil, the amount of the fees, the months of attendance, and signed by the president of the board and the principal of the school charging the tuition. The tuition or fee for transferring shall not be charged to the parent, guardian, or person legally responsible for the pupil transferred.

CHAPTER 47
(House Bill No. 53—By Mr. Blankenship)

AN ACT to amend and reenact section one, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to teachers' contracts.

[Passed February 24, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.
Section 1. Appointment of teachers; contracts; how terminated; failure of teacher to perform contract or violation thereof; when section effective.

Be it enacted by the Legislature of West Virginia:
That section one, article seven, chapter eighteen of the code
Section 1. Appointment of Teachers; Contracts; How Terminated; Failure of Teacher to Perform Contract or Violation Thereof; When Section Effective.—The board of education shall, upon appointing teachers pursuant to section four, article five of this chapter, fix their salaries as provided by section two of this article.

Before entering upon their duties, all teachers shall execute a contract with their boards of education, which contract shall state the salary to be paid and shall be in the form prescribed by the state superintendent of schools. Every such contract shall be signed by the teacher and by the president and secretary of the board of education, and when so signed shall be filed, together with the certificate of the teacher, by the secretary of the office of the board.

A teacher’s contract, under this section, shall be for a term of not less than one nor more than three years, and if, after three years of such employment, the teacher and the board of education enter into a new contract of employment, it shall be a continuing contract and shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated with written notice, stating cause or causes, to the teacher, by a majority vote of the full membership of the board before April first of the then current year, or by written resignation of the teacher before that date. Such termination shall take effect at the close of the school year in which the contract is so terminated: Provided, however, That the contract may be terminated at any time by mutual consent of the school board and the teacher, and that this section shall not affect the powers of the school board to suspend or dismiss a principal or teacher pursuant to section six of this article: Provided further, That a continuing contract in full force and effect during the school year one thousand nine hundred forty-eight and one thousand nine hundred forty-nine shall remain in full force and effect: And provided further, That a continuing contract shall
not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation of teachers and pupil-teacher ratios. But in case of such dismissal, the teachers so dismissed shall be placed upon a preferred list in the order of their length of service, and the school board shall give due consideration of such list and order if and when vacancies or need occur. A superintendent shall not be deemed a teacher within the meaning of this paragraph.

Any teacher who fails to fulfill his contract with the board, unless prevented from so doing by personal illness or other just cause, or unless released from such contract by the board, or who violates any lawful provision thereof, shall be disqualified to teach in any other public school in the state for a period of the next ensuing school year: Provided, however, That marriage of a teacher shall not be considered a failure to fulfill, or violation of, the contract: Provided further, That this section shall not become effective until on or after the first Monday in May, one thousand nine hundred forty-nine.

CHAPTER 48

(Com. Sub. for House Bill No. 146—Originating in the House Committee on Education)

AN ACT to amend and reenact sections three, thirteen, fourteen, eighteen, twenty-three, twenty-five, twenty-six and thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the benefits provided for members of the state teachers' retirement system.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section
3. Definitions.
13. Membership in system.
14. Contributions by members.
18. Funds created; uses and purposes.
23. Withdrawal and death benefits.
25. Eligibility for retirement allowance.
26. Allowance upon retirement.
34. Loans to members.

Be it enacted by the Legislature of West Virginia:

That sections three, thirteen, fourteen, eighteen, twenty-three, twenty-five, twenty-six and thirty-four, chapter eighteen 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 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, his credit for prior service, if any.

“Prior service” shall mean all service as a teacher completed prior to July first, one thousand nine hundred forty-one, and all service of a present member who was employed as a teacher, and did not contribute to retirement account because he was legally ineligible for membership during such service.

“Average final salary” shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, including military service, as provided herein, 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
68 compounded annually, or a higher earnable rate if approved by the retirement board.
69 “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.
80 “Employer” shall mean the agency of and within the state which has employed or employs a member.
82 “Contributor” shall mean a member of the retirement system who has an account in the teachers’ accumulation fund.
85 “Beneficiary” shall mean the recipient of annuity payments made under the retirement system.
87 “Refund beneficiary” shall mean the estate of a deceased contributor, or such person as he shall have nominated as beneficiary of his contributions by written designation duly executed and filed with the retirement board.
91 “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. Allowances from employers for maintenance of members shall be deemed a part of earnable compensation of such members.
98 “Annuities” shall mean the annual retirement payments for life granted beneficiaries in accordance with this article.
101 “Member” shall mean a member of the retirement system.
103 “Public schools” shall mean all publicly supported schools, including normal schools, colleges, and universities in this state.
106 “Deposit” shall mean a voluntary payment to his account by a member.
The masculine gender shall be construed so as to include the feminine.

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

Sec. 13. Membership in System.—The membership of the retirement system shall consist of the following:

(a) All persons, except new entrants, employed as teachers at the time they become eligible for membership who, within a year after becoming eligible, notify the retirement board in writing of their decision to become members. Any such persons who fail to notify the board shall automatically be constituted members one year after they become eligible, unless the retirement board receives written notice from them declining membership in the system.

(b) New entrants, whose membership in the system shall be compulsory upon employment as teachers.

The membership of any person in the retirement system shall cease:

(1) Upon the withdrawal of his accumulated contributions after the cessation of teaching service, or (2) upon retirement, or (3) at death, or (4) if service amounts to less than five years in any period of ten consecutive years.

For the purpose of subsection four, however, a deposit by the member to his individual account in the teachers' accumulation fund of an amount equalling his last annual contributions shall be deemed the equivalent of one year of service: Provided, however, That if any person returning from service in the armed forces of the United States, who immediately prior to or immediately following his induction therein withdrew his accumulated contributions and within one year following his discharge from the armed forces reentered the teaching service, then upon petition duly certified setting forth the facts filed by him with the retirement board for reinstatement of membership in the retirement system and repayment of the accumulated contributions previously withdrawn together with interest at six percentum thereon, shall be reinstated in the retirement system.
Any former member of the retirement system who has withdrawn his accumulated contributions but subsequently reenters the retirement system shall be permitted to repay to the retirement fund the amount of the contributions so withdrawn, together with interest at six per cent per annum, and shall be accorded all the rights to prior service and experience as he held at the time of withdrawal of such accumulated contributions.

Any person in subsection (a) of this section who elects to become a member after having declined to accept membership, shall be permitted to enter the retirement system, but shall be accorded only the rights of a new entrant, unless he deposits in the reserve fund twenty-five dollars for each year of his prior service. After making such a deposit, he shall be deemed a present teacher.

Sec. 14. Contributions by Members.—At the end of each month, every member of the retirement system shall contribute five per cent of his monthly earnable compensation to his individual account in the teachers' accumulation fund; however, in no case shall such monthly contributions exceed seventeen dollars, nor shall exceed an annual contribution of one hundred fifty-three dollars. 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 the following: (a) any teacher who retired because of age or service, and then resumed service as a teacher, and (b) any member who is seventy years old or older.

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 a contributor, the retirement board shall send the contributor a statement of his accumulated contributions.
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. Upon notice from retirement board to employer that contributor has failed to file such forms as prescribed, the employer shall withhold salary of contributor until needed form is filed with the retirement board.

Sec. 18. Funds Created; Uses and Purposes.—The funds created are the teachers' accumulation fund, the employers' accumulation fund, the benefit fund, the reserve fund, and the expense fund. Each fund shall constitute a separate trust.

(a) The teachers' accumulation fund shall be the fund in which the contributions of members shall be accumulated. The accumulated contributions of a member returned to him upon his withdrawal, or paid to his estate or designated beneficiary in the event of death, shall be paid from the teachers' accumulation fund. Any accumulated contributions forfeited by failure to claim such contributions shall be transferred from the teachers' accumulation fund to the reserve fund.

Any member or any employer is hereby authorized and shall be permitted to deposit in the teachers' accumulation fund for the account of any member any amounts in multiples of fifty dollars.

(b) Contributions of employers, equalling annually the members' contributions, shall be accumulated in the employers' accumulation fund through state appropriations. Upon the retirement of a member, the employers' contributions shall be transferred from the employers' accumulation fund to the benefit fund.

(c) The benefit fund shall be the fund from which annuities shall be paid. Upon the retirement of a member, his accumulated contributions shall be transferred from the teachers' accumulation fund to the benefit fund; the accumulated employers' contribution shall be transferred from the employers' accumulation fund to the benefit fund; and annually a sum for prior service pension and
disability credits, if needed, shall be transferred from the
reserve fund to the benefit fund.

(d) The retirement board is hereby authorized to ac-
cept gifts and bequests. Any funds that may come into
possession of the retirement system in this manner or
which may be transferred from the teachers' accumulation
fund by reason of the lack of a claimant or because of a
surplus in any of the funds; or any other moneys the dis-
position of which is not otherwise provided for shall be
credited to the reserve fund. The retirement board shall
allow interest on the contributions in the teachers' accu-
mulation fund. Such interest shall be paid from the re-
serve fund and credited to the teachers' accumulation
fund. Any deficit occurring in any fund which would not
be automatically covered by the payments to that fund
as otherwise provided by this article shall be met by trans-
fers from the reserve fund to such fund. In the reserve
fund shall be accumulated moneys from retirement board
appropriations to pay the accrued liabilities of the system,
caused by the granting of prior service and disability
pensions. Costs associated with board investments such
as premiums, accrued interest, and commissions, shall be
paid from the reserve fund.

(e) The expense fund shall be the fund from which
shall be paid the expense incurred in the administration
of the retirement system. The retirement board is here-
with authorized to pay, from the expense fund, member-
ship fees in such voluntary organizations as the National
Council on Teacher Retirement, anything in this code to
the contrary notwithstanding. Interest earned on loans to
members shall be deposited in the expense fund. Interest
on board investments shall be credited first to the ex-
 pense fund, but the total amount so credited in any one
fiscal year shall not exceed two per cent of the total in-
terest earned on investments during the previous fiscal
year; remainder of annual interest earnings shall be cred-
ited to the reserve fund.

The retirement board is herewith given sole authority
to direct and approve the making of any and all fund
transfers as provided herein, anything in this code to the contrary notwithstanding.

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 as follows:

(a) Four months after a contributor was last paid for service as a teacher, he shall, on demand, be paid his accumulated contributions plus refund interest up to but not including the date of his last contribution, 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.

(c) Upon the death of a contributor, his accumulated contributions plus refund interest up to and including the year of his death shall be paid to his refund beneficiary.

Sec. 25. Eligibility for Retirement Allowance.—Any member who has attained the age of sixty years or who has had thirty-five years of total service as a teacher in West Virginia, regardless of age, shall be eligible for an annuity. No new entrant nor present member shall be eligible for an annuity, however, if either has less than five years of service to his credit.

Any member who has attained the age of fifty-five years and who has served thirty years as a teacher in West Virginia shall be eligible for an annuity, but such a member who retires before attaining the age of sixty years shall receive ninety per cent of the prior service allowance which is otherwise provided by sub-section (c) of section twenty-six of this article.

Any member who attains the age of sixty-five years shall retire from service as a teacher: Provided, That if the employer shall so request in writing, the retirement board may permit the employment of each member beyond the age of sixty-five.
The request for any annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

A member shall be eligible for annuity for disability, if he satisfies the conditions in both (a) and (b) as follows:

(a) His service as a teacher in West Virginia must total at least ten years, and service as a teacher must have been terminated because of disability, which disability must have caused absence from service for at least six months before his application for disability annuity is approved.

(b) An examination by a physician or physicians selected by the retirement board must show that the member is at the time mentally or physically incapacitated for service as a teacher, that for such service the disability is total and likely to be permanent, and that he should be retired in consequence thereof.

Continuance of the disability of the retired teacher shall be established by medical examination, as prescribed in the preceding paragraph, annually for five years after retirement, and thereafter at such times as the retirement board may require. Payment of the disability annuity provided in this article shall cease immediately, if the retirement board finds that the disability of the retired teacher no longer exists, or if the retired teacher refuses to submit to medical examination as required by this section.

Sec. 26. Allowance Upon Retirement.—Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be the sum of the following:

(a) The acturarial equivalent of the contributions and deposits of the member in his individual account up to the time of his retirement, with regular interest.

(b) The acturarial 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 sec-
tion minus deposits with regular interest on such deposits.

(c) Where prior service credit has been granted, an
allowance of one and five-tenths 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 subsections (a) and (b)
of this section, if the member had contributed to his in-
dividual account until he was fifty years old, at the an-
nual rate of his past actual contributions, but this sub-
section 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 dis-
ability 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 three-fifths of the member's average final salary.

(a) Average final salary shall in no instance be deemed
to exceed the sum of two thousand five hundred dollars,
or to be less than twelve hundred 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 annu-
itant became eligible under this article for the annuity
granted; in no case, however, shall an annuitant, qualify-
ing for an annuity because of age or service, receive more
than four monthly payments which are retroactive after
the board receives application for annuity.

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,
50 if the applicant dies before the retirement board approves
51 such application.
52 The provisions of this section shall apply to the com-
53 putation of all monthly allowances paid to beneficiaries
54 after the effective date hereof.

Sec. 34. Loans to Members.—A member of the retire-
2 ment system upon written application may borrow from
3 his individual account in the teachers' accumulation fund,
4 subject to these restrictions:
5 (1) Loans shall be made in multiples of ten dollars,
6 the minimal loan being forty dollars and the maximum
7 being five hundred dollars.
8 (2) Loans to any one member shall not exceed one-
9 half of his contributions to his individual account in the
10 teachers' accumulation fund.
11 (3) Interest charged on the amount of the loan shall
12 be six per cent per annum, and minimal interest charge
13 shall be for six months.
14 (4) No member shall be eligible for more than one
15 loan in any one year, except in cases of accidents, illness
16 requiring medical or hospital care for himself or a member
17 of his immediate family.
18 (5) If a refund or benefit is payable to the borrower
19 or his beneficiary before he repays the loan with interest,
20 the balance due with interest to date shall be deducted
21 from such benefit or refund.
22 (6) From his monthly salary as a teacher the member
23 shall pay the loan and interest by deductions which will
24 pay the loan and interest in not more than sixteen nor
25 less than six months. Upon notice of loan granted and
26 payment due, the employer shall be responsible for mak-
27 ing such salary deductions and reporting them to the
28 retirement board. At the option of the retirement board,
29 loan deductions may be collected as prescribed herein for
30 the collection of members' contribution, or may be col-
31 lected through issuance of warrant by employer. If the
32 borrower decides to make loan payments while not paid
33 for service as a teacher, the retirement board must accept
34 such payments.
CHAPTER 49
(Senate Bill No. 267—By Mr. McKown)

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

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 9. School Finance.

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

Be it enacted by the Legislature of West Virginia:

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

Section 3. Collection and Disbursement of School Money by Sheriff; Signing of Orders for Payment of Money Issued by Boards of Education; Forgery of Signatures; Penalty; Continuance of Certain High Schools.—The sheriff shall receive, collect and disburse all levies and other school money for the district. He shall keep accounts of the money belonging to the several funds and shall credit and charge every amount to the fund to which it belongs. The sheriff shall pay money only upon the order of the board. The order shall specify the amount to be paid, the purpose for which it is paid, and the fund to which it shall be charged. The order shall be signed by the president and shall be countersigned by the secretary: Provided, however, That in counties having a population in excess of thirty thousand as shown by the last
preceding federal census, such signatures and the signature of the sheriff authorizing the payment of such orders by a county depository may be made by means of such mechanical or electrical device as the board may select. Such mechanical or electrical device for the making of the signatures of the president and secretary shall be safely kept in the office of the secretary of the board so that no one shall have access thereto except the president and secretary of the board and such of their respective employees as may be authorized to have access thereto. Such mechanical or electrical device for the making of the signature of the sheriff shall be safely kept in the office of the sheriff so that no one shall have access thereto except the sheriff and such of his deputies as may be authorized to have access thereto. If any person shall sign the names of the president or secretary of the board of education, without having authority so to do, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them on any order, he shall be guilty of forgery; and if any person shall utter or attempt to employ as true such forged order, knowing the same to be forged, he shall, in either event, be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.

Any high school which has been established and maintained for teacher training and other educational purposes by any board or boards of education in connection with state institutions of higher learning, shall be continued and maintained in the manner provided by the act authorizing such school; except, that the advisory authority formerly vested in the district board or boards of education is hereby transferred to the county board of education; and the levy for the support of such school, formerly laid by the district board or boards of education, shall be laid on all the assessed property of the county, by the county board of education. All expenditures from such fund shall be paid on requisition issued by the county board.
CHAPTER 50

(Com. Sub. for House Bill No. 353—Originating in the House Committee on Finance)

AN ACT to amend and reenact sections two, three, six, seven, eight, thirteen and fourteen, article nine-a, 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 fifteen, relating to state aid for schools.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

2. Definitions.
3. The foundation school program.
6. Computation of local share of revenue.
7. Total of foundation program.
13. Revenue deficiencies.
15. Marginal aid.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, seven, eight, thirteen and fourteen, article nine-a, 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 fifteen, to read as follows:

Section 2. Definitions.—For the purpose of this article:
2 "State board of school finance", "state board", or
3 "board" means the state board of school finance except
4 where the context refers to county boards of education.
5 "County board" means a county board of education.
6 "Teacher" shall include principal.
7 "Teachers employed" means the number of teachers em-
8 ployed at the end of the fourth month of the school term.
9 "Average teacher salary" for any county means the
10 sum of the basic salaries and the increments for experi-
11 ence for all teachers employed therein, divided by the
12 total number of said teachers. Basic salaries and incre-
ments for experience shall be those designated by the 
laws of West Virginia.
15 "Enrolled pupil" means any person of school age who 
has entered into the work of a public school as a pupil 
and who has been listed as such on the record thereof.
18 "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: And provided further, That no 
pupil shall be counted whose tuition is paid by or from 
another state.
26 "Weighted net enrollment" means the total net enroll-
ment, plus one-third of the high school net enrollment.
28 "High school net enrollment" means those pupils en-
rolled in a school consisting only of grades above the sixth, 
organized for instruction by departments, and those 
pupils in a school in which the seventh and eighth grades 
are organized for instruction by departments, having four 
or more teachers in these grades.
34 "High school factor" means the weighted net enroll-
ment divided by the net enrollment, carried to five deci-
mal places.
37 "Sparcity factor" shall be a number derived as follows: 
The number five divided by the sum of (1) the weighter 
net enrollment divided by the total miles of designated 
roads in the county, and (2) the weighted net enrollment 
divided by the number of square miles of area in the 
county.
43 "Miles of designated roads" shall mean miles of pri-
mary and secondary roads and highways in any county 
designated as such by the state road commission.
46 "Square miles of area" means the area of a county to 
be taken from the latest figures furnished by the West 
Virginia geological survey.
49 "Levies for general current expense purposes", for the 
purpose of this article, shall mean nineteen and six-tenths 
cents on class one property; thirty-nine and two-tenths
cents on class two property; seventy-eight and four-tenths cents on classes three and four property.

"Index" means and is a percentage figure representing average ability of a county to contribute to the foundation program. It is to be compounded as follows:

First: Determine the ratio of the economic factors, mentioned in section five of this article, in each county to the total for each such respective factor for the entire state of West Virginia. For purposes of computing "index" the ratio of said economic factors shall be averaged and the average under this paragraph "first" shall be counted as one-third.

Second: A ratio consisting of the total taxes computed by using the levies for general current expense purposes in such county for the preceding assessment year from non-public utilities property divided by the total taxes computed by using the levies for general current expense purposes as aforesaid for all counties of the state for such year, said ratio under this paragraph "second" shall be counted as one-third.

Third: A ratio consisting of the total taxes computed by using the levies for general current expense purposes in such county for the preceding assessment year from public utilities property divided by the total taxes computed by using the levies for general 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 paragraph first, second and third, shall be reduced to percentage and the average of the respective percentages shall constitute the "index".

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 money necessary to operate the public school system in each county. So far as funds available from state sources will permit, each county shall receive a sum which, together with the amount of "local share of revenue" will pay the cost of
the foundation school program as computed in accordance
with this article.

Sec. 6. Computation of Local Share of Revenue.—For
the fiscal years one thousand nine hundred forty-nine—
one thousand nine hundred fifty and one thousand nine
hundred fifty—one thousand nine hundred fifty-one, the
state board shall compute the taxes, by using the levies
for general current expense purposes, in all counties 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 respec-
tive county. The result of such multiplication shall as to
the respective counties, constitute their “local share of
revenue” for said fiscal year.

Commencing with the first day of July, one thousand
nine hundred forty-nine, the tax commissioner shall con-
tinue making such surveys, examinations, audits and in-
vestigations 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 de-
determine the true and actual value thereof. In making
such surveys he may use such methods of checking prop-
erty 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 appropriations mentioned will permit, and
shall be allowed not to exceed one hundred thousand dol-
lars in each fiscal year of the biennium beginning on the
first day of July, one thousand nine hundred forty-nine,
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 October, one thousand
nine hundred fifty, 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 purpose 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 fifty-one—one
thousand nine hundred fifty-two. Thereafter the tax com-
missioner 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 October 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 thou-
sand nine hundred fifty-one—one thousand nine hundred
fifty-two, and thereafter, the commissioner shall be al-
lowed annually not to exceed fifty 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 by the application of the "levies for general cur-
rent expense purposes", the amount of revenue which
said levies would produce, if levied upon one hundred
per cent of the true and actual value of each of the several
classes of property contained in the latest report or re-
vised report of such value, made to it by the tax com-
missioner. It shall deduct from such estimated revenue
five per cent as an allowance for the usual losses in col-
lection, due to discounts, exonerations, delinquencies, and
the like. One-half of 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 fifty-one: Provided, however, That it is de-
termined by the state board that the application of this
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79 formula for determining the local share of revenue for each county will constitute a serious curtailment to the current school program then the state board shall have authority, within its discretion, to change the equalization factor of one-half or forego altogether the change from the present formula for distribution until such time as the matter has been acted upon by the Legislature:

And provided further, 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 preceding 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 “high school factor” mentioned in section two of this article and the product obtained.

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.
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-nine—one thousand nine hundred fifty and one thousand nine hundred fifty-one—one thousand nine hundred fifty-one, if the amount of state aid computed above 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 computed and shall be as hereinafter computed, to-wit:

1. Sixty-five per cent of its foundation program, or
2. 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, whichever is greater: *Provided further,* That at this point in the computation, the state aid, if less than one hundred dollars per pupil in its foundation program, shall be computed to give an amount sufficient to raise the foundation program for any county to one hundred dollars per pupil: *And provided further,* That any county at this point in the calculation, which has less than one hundred ten dollars per pupil in the foundation program as computed as aforesaid shall receive an additional amount of two dollars and forty cents per pupil in net enrollment in its adjusted foundation program.

Sec. 13. *Revenue Deficiencies.*—If at any time deficiencies in the revenue reduce amounts available for state aid below the amount of appropriations made by the Legislature for any fiscal year, or if the amount appropriated by the Legislature for any fiscal years is insufficient to meet in full the requirements for that year of the distribution formula prescribed in this article, and it becomes necessary for the state board to reduce the
amount of state aid it shall make reductions for each county as follows:

(1) Fifty per cent of the total reductions shall apply proportionately to the adjustment made for each county adjusted, and

(2) The remaining fifty per cent of the deficiencies shall be applied as a uniform percentage reduction of the foundation program for each county.

Sec. 14. Excess Appropriations.—In any case where appropriations for state aid, exclusive of federal aid, are in excess of the foundation 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.

Sec. 15. Marginal Aid.—There shall be established a marginal aid fund in the amount of one hundred thousand dollars for each year of the biennium and, upon request of the governor, shall be transferred to the general school fund to provide equalization aid for distribution to marginal counties by the state board of school finance in addition to the state aid allocated in accordance with the provisions of this article: Provided, however, That the state board of school finance shall determine the amount of additional aid required to complete a nine months term of school in such counties and distribute such part thereof as the said fund will permit.

CHAPTER 51

(Com. Sub. for House Bill No. 282—Originating in the House Committee on Education)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article
nine-c, relating to state aid for the repair and construction of public school buildings and prescribing penalties for violations of the provisions hereof.

[Passed March 12, 1949; in effect June 1, 1949. Approved by the Governor.]


Section
1. Allocation to county boards of education.
2. Eligibility for such aid; payment to county boards.
3. Authority to deposit with sinking fund commission.
4. Conditions concerning expenditures; separate accounts and reports; approval of plans and specifications.
5. Penalties for failure to comply with such conditions.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Allocation to County Boards of Education.—Any funds appropriated by the Legislature for state aid for the repair, renovation or construction of public school buildings, or for the purchase or preparation of building sites, shall be allocated by the board of school finance to the various county boards of education as follows:
(a) Within thirty days preceding the first day of the biennium for which any such appropriation is made, the board of school finance shall allocate to each county board of education one-half of one per cent of the total amount appropriated for the biennium, and the amount so determined shall be available for payment to the county board of education during either year of the biennium.
(b) The board of school finance shall apportion the remainder of such appropriation among the various county boards of education on the basis of the ratio of the net enrollment of each county for the fourth month of the preceding school year to the total net enrollment in the state for the same month. One-half of the amount so apportioned to each county board shall be available for payment to it during each year of the biennium, if the
board is otherwise eligible therefor as hereinafter pro-
vided. If any county board is ineligible to receive the
amount allocated to it for the first year of the biennium,
such amount shall be available for payment to it during
the second year of the biennium, if the board of school
finance is satisfied that the county board is and will
remain eligible therefor for a period of at least two years.
Upon application of a county board setting forth sound
reasons therefor, the board of school finance may, during
the first year of the biennium, authorize the release and
payment to the county board of the whole amount allo-
cated to it for the biennium, if satisfied that the county
board will be eligible therefor during each year of the
biennium.

Sec. 2. Eligibility for Such Aid; Payment to County
Boards.—A county board of education shall not be eligible
for the state aid that may under the provisions of sub-
section one-b be available for payment to it in either year
of the biennium, unless in that year it shall levy the
maximum rates provided by law for general current ex-
 pense, for the permanent improvement fund, and for all
necessary debt service, and in addition thereto shall have
available for expenditure for school purposes during the
year, either from a special levy, or from private endow-
ments and gifts, or from the sale of bonds prior to the
effective date of this act, or from funds deposited with the
sinking fund commission to the credit of its permanent
improvement fund prior to the effective date of this act,
or from any combination of the four, an amount equal to
the amount that would be realized in that year from an
additional levy of not less than ten cents on class I prop-
erty, twenty cents on class II property, and forty cents
on classes III and IV property: Provided, however, That
if any county board of education has available from the
sources specified in this paragraph a sum less than would
be required to qualify it for the full amount allocated
to it under subsection (b) of section one, it shall be eligible
to receive a proportionate share of the amount so allocated
based upon the ratio of the sum in hand to the amount
which would be required for full participation: Provided
further, That notwithstanding any other requirement of this paragraph, the county board of education of any county in which the total assessed valuations fixed by the county assessor shall, after the passage of this act, be increased as much as twenty per cent above the total of such assessed valuations for the year one thousand nine hundred forty-eight, shall be eligible for the full amount allocated to it under subsection (b) of section one: And provided further, That notwithstanding any other requirement of this paragraph, the county board of education of any county in which the total assessed valuations fixed by the county assessor shall have been increased as much as fifty per cent between the years one thousand nine hundred forty and one thousand nine hundred fifty-one shall be eligible for the full amount allocated to it under subsection (b) of section one of this article.

If the board of school finance is satisfied that a county board of education is or will be eligible therefor under the provisions of this section, the board of school finance, as soon after the first day of July of each year as may be practicable, shall issue its requisition, in the manner prescribed by law, for payment to the county board of such state aid as may be available for payment to it during the year.

Sec. 3. Authority to Deposit with Sinking Fund Commission.—A county board of education that deems it more advisable to apply a portion of the funds it receives under the provisions of this article toward the later financing of its school building program, rather than to spend all of it for current building and repairs, may with the approval of the board of school finance deposit such portion with the sinking fund commission, to the credit of its permanent improvement fund. The amount so deposited shall in no way be subject to the limitations otherwise provided by law with respect to the size of the permanent improvement fund, and shall be in addition to the amount the county board is otherwise authorized to accumulate in such fund. The subsequent expenditure of the amount so deposited shall in all respects be subject to the provisions hereof with regard to conditions governing the
Sec. 4. Conditions Concerning Expenditures; Separate Accounts and Reports; Approval of Plans and Specifications.—The expenditure of all funds received by a county board of education under the provisions of this article shall be subject to the following terms and conditions:

1. The funds shall be expended only for the purposes specified in this article, and then only in conformity with the provisions of the act appropriating such funds.

2. If after the receipt of any such funds a county board should become ineligible because of a failure to levy the maximum rates provided by law for general current expense, for the permanent improvement fund, and for all necessary debt service, or because of a failure to impose the necessary additional levy, if the imposition of such additional levy was the basis on which it qualified, or because of a reduction in assessed valuations below the necessary level, if an increase in assessments was the basis on which it qualified, it shall not thereafter expend any of the remainder of such funds until the necessary levy or levies shall have been imposed, or the necessary increase in assessments shall again have been made, as the case may be.

3. The county board shall keep separate accounts, setting forth accurately and in detail the purposes for which the funds were expended and the amount spent for each purpose, and at the close of each fiscal year shall make a report thereof to the board of school finance. The separate accounts and reports shall be in such form and detail as may be required by the board of school finance.

4. The county board shall not expend any part of such funds for the purchase of a building site without prior approval by the board of school finance.

5. The county board shall not expend any part of such funds for the construction of a new building or an addition to an existing building, if such construction shall involve the expenditure of more than ten thousand dollars, without prior approval by the board of school finance of the plans and specifications for such building or addi-
tion. The board of finance shall give its approval to the
plans and specifications as submitted, if it is satisfied that
they are in conformity with the standard plans and speci-
fications prescribed by the state board of education, as
provided by law.

Sec. 5. Penalties for Failure to Comply with Such Con-
ditions.—Any county superintendent of schools, or any
member of a county board of education, who shall au-
thorize or permit the expenditure of any funds in viola-
tion of any of the provisions of the preceding section, shall
be guilty of a misdemeanor, and upon conviction thereof
shall be punished by a fine of not less than one hundred
dollars nor more than five hundred dollars, or by im-
prisonment in the county jail for not less than one month
nor more than six months, or by both such fine and im-
prisonment.

Whenever a county board of education shall expend any
amount in violation of any of the provisions of the pre-
ceding section, the board of school finance shall withhold
a like amount from any future state aid to which such
county board would otherwise be entitled under the pro-
visions of this article, and may in its discretion withhold
such amount from any future state aid to which the county
board would otherwise be entitled under any provision of
law.

CHAPTER 52

(House Bill No. 105—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section eight, article ten, chapter
eighteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the acceptance
and disbursement of future federal funds allocated to the
state for educational purposes.

[Passed March 5, 1949; in effect ninety days from passage. Approved by the
Governor.]

Article 10. Federal Aid and Gifts for Educational Purposes.

Section

8. Acceptance and disbursement of future federal funds allocated
to state.
Be it enacted by the Legislature of West Virginia:

That section eight, article ten, 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 8. Acceptance and Disbursement of Future Federal Funds Allocated to State.—The state board of education is hereby authorized and empowered to accept for the state of West Virginia, and expend for the purpose designated, any funds that may hereafter be made available to the board out of the federal treasury by an act or acts of Congress and allocated to this state for vocational education, or for the use or benefit of the state colleges and other state institutions under the direct control and supervision of the board, or for any other educational purpose.

The state superintendent of free schools is hereby authorized and empowered to accept for the state of West Virginia any funds that may hereafter be made available to the state department of education or to the state superintendent of free schools out of the federal treasury by an act or acts of Congress for current expense, capital outlay, free textbooks, or any other educational purpose in local public school units, or for any other educational purpose.

Subject to the provisions and conditions of applicable federal law with respect to the allocation and distribution of any federal funds for current expense purposes in local public school units, the state board of school finance is hereby authorized and empowered to allocate and distribute said federal funds in accordance with the following provisions:

1. Of said federal funds received, seventy-one per cent shall be allocated for teachers’ salaries and the distribution to each county board of education shall be made on the basis of actual teachers employed at the end of the second month of the current school term and said allocated share of such funds shall be used in said county for the purpose of adding to the present minimum legal salaries the following increments:
36 (a) Ten dollars per month for all teachers holding emergency certificates based on less than two years of college training.
37 (b) Twenty-five dollars per month for all teachers holding regular certificates based on less than four years of college training and all teachers holding emergency certificates based on two or more years of college training.
38 (c) Sixty-five dollars per month for all teachers holding regular certificates based on college degrees.
39 All such increments may be reduced or increased on a proportionate basis in accordance with the amount of funds available under the seventy-one per cent allocation.
40 2. The balance of said federal funds, the equivalent of twenty-nine per cent of said funds, shall be distributed among the several counties. Such distribution shall be based on the net enrollment for the fourth school month of the current year and determined on a ratio that said net enrollment of each county bears to the total net enrollment of the state.

CHAPTER 53
(House Bill No. 83—By Mr. Powell, of Hampshire)

AN ACT to amend and reenact section two, article seventeen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the admission and record of deaf and blind pupils in state institutions.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 17. West Virginia Schools for the Deaf and the Blind.

Section
2. Admission and record of pupils.

Be it enacted by the Legislature of West Virginia:

That section two, article seventeen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 2. Admission and Record of Pupils.—All white deaf and blind youths resident in the state, between the ages of six and twenty-five years, shall be admitted to the institution on application to the principal, until the institution is filled. Applicants shall be admitted in the order of their application. It shall be the duty of the principal to keep a careful record of the names of all applicants, with the dates of their admission and discharge, their ages, post-office addresses, the names of their parents or guardians, and the degree, cause and circumstances of their deafness or blindness.

CHAPTER 54

(House Bill No. 204—By Mr. Barger)

AN ACT to authorize the board of governors of West Virginia university and Potomac state school of West Virginia to expend from collections in the farm sales account of Potomac state school, an amount not to exceed seven hundred fifty dollars for the purchase of land.

[Passed February 18, 1949; in effect from passage. Approved by the Governor.]

Section 1. Expenditure for purchase of land at Potomac state school.

Be it enacted by the Legislature of West Virginia:

Section 1. Expenditure for Purchase of Land at Potomac State School.—The board of governors of West Virginia university and Potomac state school of West Virginia university is hereby authorized to expend from the farm sales account of Potomac state school, a sum not to exceed seven hundred fifty dollars, for the purchase of ninety acres of land, more or less, adjacent to the present lands of Potomac state school.
AN ACT to amend and reenact section nine, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the election of president and vice president and to the filling of vacancies in the electoral college.

[Passed March 5, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 1. General Elections; Officers to be Chosen; Precincts.

Section 9. Election of president and vice president; filling of vacancies in the electoral college.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Election of President and Vice President;
Filling of Vacancies in the Electoral College.—The presidential electors shall meet in the office of the governor at the capitol of this state, on the day now appointed, or which shall hereafter be appointed, by the Congress of the United States and vote for the president and for the vice president of the United States in the manner prescribed by the constitution and the laws of the United States. If any of the electors so chosen fail to attend at the time appointed, the electors present shall appoint an elector in place of each one so failing to attend, and every elector so appointed shall be entitled to vote in the same manner as if he had been originally chosen by the people.

Each presidential elector shall receive as compensation the sum of ten dollars a day for attending such meeting, including the time spent in traveling to and from the place of meeting, and in addition thereto the sum of ten cents for every mile necessarily traveled in going to and returning from the place of meeting, by the most direct route.
CHAPTER 56

(Senate Bill No. 167—By Mr. Bean)

AN ACT to amend and reenact section eleven, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to meetings of the state election commission.

[Passed March 3, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 2. Registration of Voters.

Section

11. Meetings of state election commission.

Be it enacted by the Legislature of West Virginia:

That section eleven, 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 11. Meetings.—The commission shall hold such meetings as may be called by the chairman, the governor, or the secretary of state.

CHAPTER 57

(Com. Sub. for House Bill No. 378—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections two, sixteen and twenty-five, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the permanent registration of voters.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 2. Registration of Voters.

Section

2. Definitions.
16. Appointment of registrars; qualifications and duties.
25. Biennial or quadrennial check-up.
Be it enacted by the Legislature of West Virginia:

That sections two, sixteen and twenty-five, 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:

Sec. 2. Definitions.—For the purpose of this article, unless the context clearly requires a different meaning:

"Qualified voter" shall mean any person who possesses the statutory and constitutional requirements for voting.

"Election" shall mean the procedure whereby the voters of this state or any subdivision thereof elect persons to fill public offices or vote on public questions.

"Any election" or "all elections" shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal, state, county, city, town or village officers of any subdivision now existing or hereafter created, or for voting upon any public question submitted to the people of the state or any of the aforesaid subdivisions.

The masculine pronoun shall be construed to include the feminine. "Subdivision" shall mean any county, city, town, village or any other 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 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
35 fifty, and every two years subsequent thereto, if in the
36 discretion of the county court a biennial check-up is
37 deemed necessary shall proceed to register all persons
38 who are not registered, but who qualify for registration;
39 or to check and, if necessary, alter, amend, correct, or
40 cancel the registration records of those persons previously
41 registered, including the acceptance of applications for
42 transfer of the registration of any person previously regis-
43 tered at another address within the county, or for the
44 change of party affiliation.
45 “Quadrennial check-up” shall mean the process by
46 which registrars, during the year one thousand nine hun-
47 dred fifty-two, and every four years subsequent thereto,
48 shall proceed to register all persons who are not registered,
49 but who qualify for registration; or to check and, if neces-
50 sary, alter, amend, correct, or cancel the registration rec-
51 ords of those persons previously registered, including the
52 acceptance of applications for transfer of the registration
53 of any person previously registered at another address
54 within the county, or for the change of party affiliation.
55 “Registration form” shall mean the unfilled form to be
56 used for the registration of voters.
57 “Registrar” shall be construed to include deputy regis-
58 trar. In determining or reckoning any period of time
59 mentioned in this act the day upon which the act is done,
60 paper filed, or notice given shall be excluded from, and
61 the date of any election, hearing or other subsequent
62 event, as the case may be, shall be included in the calcu-
63 lation or reckoning; but if the last day upon which any
64 act may be done, paper filed, or notice given, shall fall
65 on a Sunday or legal holiday the next following ordinary
66 business day shall be considered as the last day for such
67 purpose.

Sec. 16. Appointment of Registrars; Qualifications and
2 Duties.—The county court of each county shall, not less
3 than eighteen nor more than twenty weeks prior to the
4 date of a state-wide primary election, appoint two com-
5 petent persons, for one or more but not to exceed ten
6 voting precincts in the county, to act as registrars for
7 the purpose of making a biennial or quadrennial check-up
8 required by this article. No person shall be eligible to
9 appointment as a registrar, or in any way act as such,
10 if he has been convicted of a felony or if he holds any
11 elective or appointive office, or is a public employee,
12 under the laws of this state or of the United States; or
13 cannot read or write the English language; or is a can-
14 didate to be voted for at such election. If any such regis-
15 trar shall fail or refuse to serve or is properly dismissed,
16 the vacancy shall be filled either by the county court or
17 by the clerk thereof in vacation, in the manner pro-
18 vided for the appointment of registrars. Each regis-
19 trar before entering upon the discharge of his duties,
20 shall take an oath that he will perform the duties of
21 the office to the best of his ability, which oath shall be
22 filed in the office of the clerk of the county court.
23 An equal number of such registrars shall be selected
24 from the two political parties which, at the last preced-
25 ing election, cast the highest number and next highest
26 number of votes in the county in which the election is
27 to be held. The county court shall, at least four weeks
28 prior to making such appointment, request the county
29 executive committee of each of the said two political
30 parties to submit a list of names, equal to one-half of
31 the total number to be appointed, of persons qualified
32 to act as registrars; and the county court shall, if such
33 lists are submitted, appoint the respective registrars
34 therefrom, and shall notify each registrar of his ap-
35 pointment. Every such list so presented shall be filed
36 and preserved for one year by the clerk of such court
37 in his office. Any and every act performed by any
38 registrar under the provisions of this article shall be
39 void unless performed in conjunction with a registrar
40 of the opposite political party at the same time and
41 place.
42 Before acting, all such registrars shall attend a ses-
43 sion, or sessions, of instruction by the clerk of the
44 county court, or some person designated by him, con-
45 cerning the performance of their duties. For his at-
46 tendance at such session, or sessions, not to exceed two
47 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 and reference to the regis-
tering of voters, and all necessary forms and other sup-
plies, 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 registrar shall thereupon
proceed together to make a house-to-house canvass
in their precinct for the purpose of making the bienn-
ial or quadrennial check-up required by section twenty-
five of this article. In making such check-up the regis-
trars 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 per-
sons who were missed during the house-to-house can-
vass or who have since become qualified to register
in the precinct, the registrars shall sit together at some
public place or places within the precincts assigned
them for not less than one day beginning Monday of
the sixth week preceding the primary or general elec-
tion and continuing for not more than ten days. The
county court shall designate the place and fix the date
or dates for such sittings in the precincts 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 news-
papers of opposite politics and of general circulation in
the county, giving the time and places where such regis-
trars 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 or quadrennial check-up and immediately following the last sitting before the 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. 25. Biennial or Quadrennial Check-up.—During the year one thousand nine hundred fifty and every two years subsequent thereto, there may be a biennial check-up if in the discretion of the county court such check-up is deemed necessary and advisable; there shall be a quadrennial check-up in every county in the state, beginning with the year one thousand nine hundred fifty-two and every four years subsequent thereto, and 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.

CHAPTER 58

(Com. Sub. for House Bill No. 9—Originating in the House Committee on the Judiciary)

AN ACT to amend chapter three of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be numbered article five-a, providing for the adoption, acquisition and use of voting machines in regular, special and primary elections; authorizing methods of leasing or purchasing of such machines; describing the equipment and ballot labels to be used, the manner of holding elections wherein such voting machines are used, and the canvass of the results thereof; and imposing penalties for violations thereof.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 5-a. Use of Voting Machines.

Section
1. Use of voting machines authorized.
2. Voting machines; how adopted.
3. Duty of county court to acquire voting machines.
4. Voting machines, manner in which acquired.
5. Financing acquisition of voting machines.
6. Minimum requirements of voting machines.
7. Voting machine commission; creation and duties.
8. County clerk custodian of machines.
11. Vacancy filled after ballots are printed.
12. Notice to county court members and ballot commissioners; examination of machines.
13. Appointment of election boards; instruction.
15. Delivery of machines; arrangements for voting.
16. Examination of machine by election officers before voting starts.
17. Machine in disrepair: reserve machine; certifying result of election.
18. Duties of election officers; primary elections; adjustment of machine.
19. Assistance to voters unable to read
20. Absent voters' ballots; recording, disposition.
22. Other necessary equipment and supplies.
23. Count of votes; machine to be locked and sealed; announcement of vote; return sheets.
24. Form of return sheets; posting results of election; delivery of return sheets.
25. How long machine to remain locked after election; court orders for examination of machine; contested elections.
26. Discrepancy in returns; recanvass of votes; notices required; correction of result.
27. Number of voters in precinct.
28. Tampering or impairing the use of voting machines; penalty.
29. Tampering or disarranging of voting machine by election officials and public officers; penalty.
30. False swearing or failure to disclose facts in affidavit by person soliciting voting machine bid; penalty.
31. Willful neglect of duty by election officer; penalty.
32. General law applicable to voting machines.
33. Use of voting machines authorized in municipal elections.
34. Severability, if held unconstitutional.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Use of Voting Machines Authorized.—Voting machines may be used for the purpose of registering or recording and computing votes cast in regular, special and primary elections, provided that the use thereof shall be governed by the terms, conditions, restrictions and limitations imposed by this article.

Sec. 2. Voting Machines; How Adopted.—Voting machines may be adopted for use in general, primary and special elections in any county by either of the following procedures, and not otherwise:

(1) By a majority of the members of the county court voting to adopt the same at a meeting regularly called in regular or special session: Provided, however, that such meeting shall be held not less than six months prior to a general election or six months prior to a primary election. If at such meeting, such county court shall enter an order of its intention to adopt the use of voting machines, it shall thereafter forthwith cause to be published a certified copy of such order in some newspaper of general circulation in such county. Such notice shall be published at least once a week for four successive weeks beginning not less than twenty days after the entry of such order, and a copy of such order shall be posted at the front door of the courthouse and at least three other public places in such county for a like period. Such county court shall not adopt the use of voting machines until ninety days after the entry of such order of its intention to adopt the same. Promptly after the expiration of ninety days after the entry of such order of intention to adopt the use of voting machines, if no petition has theretofore been filed with such county court requesting a referendum on the ques-
tion of adoption of voting machines as hereinafter pro-
vided, such county court shall enter a final order adopting
voting machines, and voting machines shall thereby be
adopted.

If five per cent or more of the registered voters of
such county shall sign a petition requesting that voting
machines be not adopted for use in such county and
such petition be filed with the county court of such
county within ninety days after the entry of such order
of intention to adopt the use of voting machines, such
county court shall submit to the voters of such county
at the next general or primary election, whichever shall
first occur, the question: "Shall voting machines be
adopted in ____________ County?" If this question
be answered in the affirmative by a majority of the
voters in such election upon the question, voting
machines shall thereby be adopted. If such question shall
not be answered in the affirmative by such majority,
the use of voting machines shall not be adopted.

(2) By the affirmative vote of a majority of the
voters of such county voting upon the question of the
adoption of voting machines in such county. If five per
cent or more of the registered voters of such county
shall sign a petition requesting the adoption of voting
machines for use in such county, and such petition be
filed with the county court of such county, such county
court shall submit to the voters of such county at the
next general or primary election, following by not less
than ninety days the date of the filing of such petition,
the question: "Shall voting machines be adopted in
___________ County?" If this question be answered
in the affirmative by a majority of the voters of such
county voting upon the question, voting machines shall
thereby be adopted. If such question shall not be an-
swered in the affirmative by such majority, the use of
voting machines shall not be adopted.

If at any time after the adoption of voting machines
in any county as herein provided, five per cent or more
of the registered voters of such county shall sign a pe-
tition requesting that the use of voting machines be ter-
minated, and such petition be filed with the county
court of such county, such county court shall submit
to the voters of such county at the next general or pri-
mary election following by not less than ninety days
the date of the filing of such petition. The question:
"Shall the use of voting machines in ___________ _________.
County be terminated?" If this question be answered
in the affirmative by a majority of the voters of such
county voting upon the question, the use of voting
machines in all future elections shall thereby be ter-
minated; otherwise, the use of voting machines shall
be continued.

Any vote pursuant to this section which results in a
failure to adopt, or in a termination of, the use of voting
machines shall not be construed to preclude any future
proceeding by the voters or the county court of any
county to adopt or readopt voting machines in a law-
ful manner as provided herein.

Sec. 3. Duty of County Court to Acquire Voting
Machines.—If the use of voting machines shall have
been adopted as hereinbefore provided, it shall be the
duty of the county court of such county to acquire the
necessary number of voting machines to supply each
election precinct within such county as soon as possible,
and to acquire such reserve machine or machines as will
be deemed necessary, and to acquire for each machine
an instruction model.

If it shall be impossible for the county court to sup-
ply each election precinct with a voting machine or
voting machines for use at the next general election
following the adoption of voting machines, as many
voting machines shall be supplied for that election and
the next succeeding elections as it is possible for the
county court to acquire in the manner as hereinafter
provided, and the machines so acquired may be used in
such election precincts within the county as the county
court may direct until it shall be possible to provide
the requisite number of voting machines properly to
equip all precincts within the county.

Sec. 4. Voting Machines, Manner in which Ac-
quired.—Contracts for the purchase or lease of voting
3 machines shall be based on competitive bids. The 4 county court shall solicit sealed bids by sending requests 5 by mail to all known manufacturers and suppliers of 6 voting machines which have been previously approved 7 by the voting machine commission as hereinafter pro- 8 vided. The award of contracts of purchase or lease shall 9 be based on the quality, cost, specifications and suitability 10 of the particular voting machines.

No bid shall be accepted by the county court unless 12 accompanied by a contract which shall provide that in 13 the event the bid is accepted the party or parties making 14 the sale or lease shall:

(1) Guarantee in writing to keep the machine or 16 machines in good working order for five years without 17 additional cost to the county court.

(2) Warrant to defend and indemnify the county 19 court against any claim for patent infringement, and 20 in case any machine or machines shall be held to be an 21 infringement of a valid patent, to obtain a license for 22 the use of such patent on the machines sold or leased 23 to the county court or to modify the machines so that 24 the offending infringement is removed without alter- 25 ing the mechanical efficiency or statutory requirements 26 of the machines; all at the sole cost and expense of the 27 supplier of the voting machines.

(3) Provide a bond with good corporate surety duly 29 qualified to do business in West Virginia, conditioned 30 upon the due performance of said guaranty and said 31 warranty, in a penal sum to be fixed by the county 32 court.

No bid shall be accepted by the county court unless 34 the party or parties submitting the bid shall file with 35 the bid an affidavit:

(1) disclosing the name and address of, and the 37 amount of any contribution paid or to be paid to 38 any individual, partnership, corporation or associa- 39 tion, whether regularly or specially hired for the 40 purpose, or partly for the purpose, of attempting 41 to influence directly or indirectly the purchase 42 or lease of the voting machine represented by the 43 bid.
(2) declaring that no individual, partnership, corporation or association not disclosed in said affidavit shall thereafter be regularly or specially hired and no contribution shall thereafter be paid for the purpose or partly for the purpose of attempting to influence directly or indirectly the purchase or lease of the voting machine represented by the bid.

For the purpose of this affidavit, the word “contribution” shall mean the payment, distribution, loan, advance, deposit, gift of money, property, benefit or other consideration, or any agreement providing for a payment, distribution, loan, advance, deposit, or gift of money, property, benefit, or other consideration at any future time.

Sec. 5. Financing Acquisition of Voting Machines.

The county court may finance the acquisition of voting machines by any one or any combination of the following methods:

(1) By purchasing the same and paying the purchase price therefor in cash from funds available from the maximum general levy or from any other lawful source.

(2) By leasing the same under written contract of lease, and paying the rentals therefor in cash from funds available from the maximum general levy or any other lawful source.

Sec. 6. Minimum Requirements of Voting Machines.—A voting machine of particular make and design shall not be approved by the voting machine commission or be purchased, leased, or used, by any county court unless it shall fulfill the following requirements:

(1) It shall secure or insure the voter absolute secrecy in the act of voting, or, at the voter's election, shall provide for open voting.

(2) It shall be so constructed that no person except in instances of open voting, as herein provided for, can see or know for whom any voter has voted or is voting, and that no voter or other person can, while the machine is unlocked for operation, see or otherwise ascertain
the numerical total of votes cast for any candidate or
for or against any question.

(3) It shall permit each voter to vote at any elec-
tion for all persons and offices for whom and which
he is lawfully entitled to vote, whether or not the name
of any such person appears on a ballot label as a can-
didate; and it shall permit each voter to vote for as many
persons for an office as he is lawfully entitled to vote for;
and to vote for or against any question upon which he is
lawfully entitled to vote.

(4) It shall preclude each voter from voting for
any person or office or upon any question for whom
or which and upon which he is not lawfully entitled
to vote and from voting for more persons for any office
than he is lawfully entitled to vote for, and from voting
for any candidate for the same office and upon any
question more than once.

(5) It shall permit each voter to deposit, write in,
or affix upon devices to be provided for that purpose,
ballots containing the names of persons for whom he
desires to vote whose names do not appear upon the
machine ballot labels.

(6) It shall permit each voter to change his vote for
any candidate and upon any question appearing upon
the ballot labels up to the time when he starts to regis-
ter his vote.

(7) It shall correctly register and accurately count
all votes cast for each candidate and for and against
each question appearing upon the ballot labels.

(8) It shall permit each voter at any election, other
than primary elections, to vote a straight party ticket
by one device, and by one device to vote for all can-
didates of one party for presidential electors; and to
vote a mixed ticket selected from the candidates of
any and all parties and from independent candidates.

(9) It shall be capable of adjustment by election
officers at a primary election so as to permit each
voter to vote only for the candidates of the party with
which he has declared his affiliation, and so as to pre-
clude him from voting for any candidate seeking nom-
ination by any other political party, and so as to permit
each voter to vote for the candidates, if any, for non-
partisan nomination or election.

(10) It shall have separate voting devices for can-
didates and questions, which shall be arranged in sep-
arate rows or columns. It shall also be arranged so
that one or more adjacent rows or columns may be
assigned to the candidates of each political party at
primary elections.

(11) It shall have a public counter, or other device,
the register of which is visible on the outside of the
machine and which shall show the total number of
voters who have voted on that machine in the election;
also candidate and question counters or other devices
which shall not be visible on the outside of the mach-
ine when the machine is unlocked for operation, and
upon which are registered numerically the total votes
cast for each candidate and question appearing on the
ballot labels; also a protective counter or other device
which will record the cumulative total number of
movements of the registering mechanism.

(12) It shall be provided with locks and seals by
the use of which all movement of the registering mech-
anism is prevented, both before the polls are open or
before the operation of the machine for an election is
begun, and immediately after the polls are closed or
after the operation of the machine for an election is
completed.

(13) It shall have the capacity to contain the names
of candidates constituting the tickets of at least nine
political parties, and to accommodate the wording of
at least fifteen questions.

(14) It shall be durably constructed of material of
good quality and in a workmanlike manner and in a
form which shall make it safely transportable.

(15) It shall be so constructed with frames for the
placing of ballot labels and with transparent devices
for the protection of such labels, that the labels on which
are printed the names of candidates and their respective
parties, titles of offices, and wording of questions shall
be reasonably protected from mutilation, disfigurement
or disarrangement.
(16) It shall bear a number that will identify it or distinguish it from any other machine.

(17) It shall be so constructed that a voter may easily learn the method of operating it and may expeditiously cast his vote for all candidates of his choice.

(18) It shall be accompanied by a mechanically operated instruction model which shall show the arrangement of ballot labels, party columns or rows, and questions.

Sec. 7. Voting Machine Commission; Creation and Duties.—There is hereby created a voting machine commission, to be composed of the secretary of state, and two persons appointed by the governor, by and with the consent of the Senate, who shall be mechanical experts and not members of the same political party. The term of office of such commissioners shall be four years, except that the commissioners appointed by the governor shall be subject to removal at his pleasure, and that any secretary of state, in surrendering the duties of his office, shall be succeeded on the commission by the succeeding secretary of state. No member of the commission shall have any interest in any voting machine.

Any person or corporation owning or being interested in any voting machine may apply to said commission to the end that such machine may be examined and a report be made on its accuracy, efficiency, capacity, and safety. The mechanical experts of the commission shall examine the machine and make full report thereon to the secretary of state. They shall state in the report whether or not the machine so examined complies with the requirements of this article and can be safely used by voters at elections under the conditions prescribed in this article. If the report be in the affirmative upon said question, the machine shall be deemed approved by the commission and the machine of its make and design may be adopted for use at elections as herein provided. Any form of voting machine not so approved shall not be used at any election.

Each of the two mechanical experts on the commission shall be entitled to two hundred dollars for his
compensation and expenses in making such examination and report, and such compensation shall be paid by the person or corporation applying for such examination, which sum shall be paid in advance of making the examination and which sum shall be the sole compensation to be received by any such expert for his work hereunder.

Sec. 8. County Clerk Custodian of Machines.—When voting machines are acquired by any county court, they shall be immediately placed in the custody of the county clerk, and shall remain in his custody at all times except when in use at an election or when in custody of a court or court officers during contest proceedings. The clerk shall see that the machines are properly protected and preserved from damage or unnecessary deterioration, and shall not permit any unauthorized person to tamper with them. The clerk shall also be charged with the duty of keeping the machines in repair and of preparing the same for voting.

Sec. 9. Printing of Ballot Labels and Instruction Cards.—The ballot commissioners of any county in which voting machines are to be used in any election shall cause to be printed and ready for use at such election five sets of ballot labels for each precinct in which a machine is to be used. Each such set shall contain the name of each candidate and each question to be voted upon. All ballot labels shall be clearly printed or typed in black ink on clear, white material, of such size as will fit the ballot frames. One set of ballot labels shall be inserted in the machine prior to the delivery of the machine to the polling place as hereinafter provided. Two sets of ballot labels shall be placed in the custody of the election commissioners of each precinct for use in the event the set so inserted in the machine becomes mutilated or damaged. The remaining two sets shall be inserted in or affixed to the facsimile diagrams, as hereinafter provided.

The ballot commissioners shall also cause to be printed a supply of instruction cards and facsimile diagrams to be used as hereinafter provided.
Sec. 10. Preparation of Machines.—Upon receiving the printed ballot labels, the county clerk shall place them in the ballot frames of the voting machines in such manner as will most nearly conform to the arrangement prescribed for paper ballots, and as will clearly indicate the party designation or emblem, if any, of each candidate. Each column or row containing the names of the office and candidates for such office shall be so arranged as to indicate clearly the office for which the candidate is running. The ballot labels containing the names of candidates required by law to be rotated within each office division shall be inserted in the ballot frames of the several voting machines to be used in the election in such a manner that each candidate shall appear at the top, the bottom and at such intermediate positions within the proper office division an equal number of times.

The county clerk shall then see that the counters referred to in subsection eleven of section six of this article are set at zero (000) and shall lock the operating device and mechanism and devices protecting the counters and ballot labels. The clerk shall then enter in an appropriate book, opposite the number of each precinct, the identifying or distinguishing number of the specific voting machine to be used in that precinct.

Sec. 11. Vacancy Filled After Ballots are Printed.—If a nomination to fill a vacancy be made by a political committee or the chairman thereof and be certified to the ballot commissioners after the ballot labels to be used at the ensuing election shall have been printed, it shall be lawful for the chairman of the party executive committee for the political division to provide, or cause to be provided and deliver, or cause to be delivered, to the county clerk, a sufficient number of ballot labels containing the name of such candidate: Provided, however, That such ballot labels conform to the specifications as set forth in section nine of this article. If such ballot labels are furnished to the clerk of the county court before the machines are delivered to the election precincts, the clerk, with the advice and con-
sent of the ballot commissioners, shall cause such ballot
labels to be inserted in the proper ballot frames.

Sec. 12. Notice to County Court Members and Bal-
lot Commissioners; Examination of Machines.—Upon
completing the preparation of the machines in accord-
ance with the provisions of section ten of this article,
and not later than seven days before the day of the elec-
tion, the county clerk shall notify the members of the
county court and the ballot commissioners that the ma-
chines are ready for use. Thereupon the members of the
county court and the ballot commissioners shall convene
at the office of the county clerk, or at such other place
wherein the voting machines are stored, not later than
five days before the day of the election, and shall examine
the machines to determine whether the requirements of
section ten of this article have been met. Any candidate,
and one representative of each political party having can-
didates to be voted on at the election, may be present
during such examination. If the machines are found
to be in proper order, the members of the county court
and the ballot commissioners shall endorse their approval
in the book in which the county clerk entered the num-
ers of the machines opposite the numbers of the pre-
cincts. The county clerk shall then deliver the keys to
the voting machines to the ballot commissioners who shall
give a receipt for the keys, which receipt shall contain
identification of such keys. Not later than three days be-
fore the election the election commissioner of each pre-
cinct, who shall have been previously designated by the
ballot commissioners, shall attend at the office of the
clers of the circuit and county courts of such county to
receive the key or keys to the device covering the reg-
istering counters and such other keys as may be neces-
sary for the operation of the machine in registering votes,
and to receive the other necessary election records, books,
and supplies required by law. Such election commission-
ers shall receive the per diem mileage rate prescribed by
law for this service. Such election commissioners shall
give the ballot commissioners a receipt for such keys, rec-
ords, books and supplies, and such receipt shall contain identification of such keys. The master key and all other keys shall remain in the possession of the clerk of the county court.

Sec. 13. Appointment of Election Boards; Instruction.—The provisions of section nine of article five and section fifteen of article four of this chapter with respect to the number of election officers in each precinct shall not apply to precincts in counties in which voting machines have been adopted, and the county court of such county shall appoint, subject to all other provisions of section nine of article five and section fifteen of article five of this chapter, a uniform election board, to consist of three election commissioners and two poll clerks, to serve in each precinct.

The county court shall call the necessary meeting or meetings for the instruction of all election officials in the use of voting machines. Such meeting or meetings shall be held and the proper instruction given not less than seven days prior to any election in which voting machines are to be used. No election officer, upon being so notified to appear for instruction, shall fail without just cause to do so. If any officer does so fail to appear, the county court may appoint some other qualified person, and such person, after instruction, shall act in the place of the defaulting officer: Provided, however, That if such defaulting officer was appointed by the county court upon the written recommendation of a county executive committee as provided in section fifteen of article four and in section nine of article five of this chapter, the county court shall give written notice of such default to such county executive committee and appoint a person to take the place of such defaulting person upon the recommendation of such county executive committee. The election officers shall receive the per diem mileage rate prescribed by law for attending such instruction meetings.

Sec. 14. Voting Machine Models and Facsimile Diagrams.—For the instruction of the voters on any elec-
tion day there shall be provided for each polling place one instruction model for each voting machine. Each such instruction model shall be constructed so as to provide a replica of a portion of the face of the voting machine, and shall contain the arrangement of the ballot labels, party columns or rows, office columns or rows, and questions. Fictitious names shall be inserted in the ballot labels of the models. Such models shall be located on the election officers' tables or in some other place in which the voter must pass to reach the voting machine. Each voter, upon request, before voting, shall be offered instruction by the election officers in the operation of the voting machine by use of the instruction model, and each voter shall be given ample opportunity to operate the model himself.

The ballot commissioners shall also provide facsimile diagrams, at least two of which shall be posted on the walls of each polling place. The facsimile diagrams shall be exact diagrams of the face of the voting machines to the end that the voter may become familiar with the location of the parties, offices, candidates and questions as they appear on the voting machine to be used in his precinct. Ballot labels may be affixed to the diagrams to insure that the position of the names of the candidates in each office division shall appear accurately on the diagrams of each precinct.

Sec. 15. Delivery of Machines; Arrangements for Voting.—The county clerk shall deliver or cause to be delivered each voting machine to the polling place where it is to be employed. Such delivery shall be made not less than one hour prior to the opening of the polls. At the time of the delivery of the voting machine the operating device and mechanism and the device covering the registering counters shall be securely locked. The election commissioners shall then cause the machine to be arranged in the voting place in such manner that the front of the machine, on which the ballot labels appear, will not be visible, when the machine is being operated, to any person other than the voter if the voter shall elect to close the curtain, screen or hood furnished with the voting machine.
Sec. 16. Examination of Machine by Election Officers Before Voting Starts.—Before permitting the first voter to vote, the election officers shall examine the machine to ascertain whether it has been operated since the public counters referred to in subsection eleven of section six of this article were set at zero (000) and to ascertain whether the ballot labels are arranged as specified on the facsimile diagram of the precinct. If the machine indicates that it has been operated or if the ballot labels are arranged incorrectly, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of one or more members of the county court and one or more of the ballot commissioners, who shall reset the counters at zero (000) and then relock the device covering the counters, or properly arrange the ballot labels, as the case may be, in the presence of the election officers. If the attendance of such members of the county court and ballot commissioners cannot be obtained before the time for opening the polls or within one hour thereafter, the election officers shall notify the county clerk of the foregoing facts and obtain from such county clerk a reserve voting machine, and thereafter proceed to conduct the election. Any reserve machine so used, shall be prepared for use by the county clerk or his duly appointed deputy and said reserve machine shall be delivered and examined in the same manner as hereinbefore provided. The machine found to have been operated or provided with incorrect ballot labels shall be returned immediately to the custody of the county clerk who shall then promptly cause such machine to be repaired in order that it may be used as a reserve machine if needed.

Sec. 17. Machine in Disrepair; Reserve Machine; Certifying Result of Election.—If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this article, the election officers shall lock or seal the machine in such manner as to prevent further voting thereon and shall record the numbers
shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine, which shall be prepared for use, delivered and examined in the same manner as hereinbefore provided, and shall thereafter proceed to conduct the election. When the polls are closed, both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in section twenty-three of this article and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

Sec. 18. Duties of Election Officers; Primary Elections; Adjustment of Machine.—(1) The election officers shall constantly and diligently maintain a watch in order to see that no person votes more than once and to prevent any voter from occupying the voting machine more than five minutes. (2) In primary elections, before a voter is permitted to use the voting machine, the election officer representing the party to which the voter belongs shall adjust the machine so that the voter will be able to vote only for the candidates who are seeking nomination on the ticket of the party with which the voter is affiliated. (3) If the machine is so constructed as to require adjustment after one person has voted before another person can vote, the election officers shall so adjust it after each person has voted.

Sec. 19. Assistance to Voters Unable to Read.—Any person who shall have indicated upon his registration record that he is unable, by means of physical disability, or illiteracy, to write may ask for assistance from two election officers of opposite political affiliations to whom he shall thereupon declare his choice of candidates and his position on questions appearing on the ballot labels; such officers, in the presence of the voter and of each other shall thereupon cause such voter’s declared choices to be registered by the machine as votes.

Sec. 20. Absent Voters’ Ballots; Recording, Dispo-
sition.—When absent voters’ ballots have been voted and delivered to the election board of any precinct, the election commissioners shall as time permits proceed to determine the legality of such ballots as prescribed in sections one to fifteen of article six of this chapter, and shall prior to the close of the polls, before sealing the operating lever and before unlocking the counter compartment, vote or record such votes on the voting machine. Such recording of absent voters’ ballots shall be done by one of the election commissioners and the act of casting such votes shall be performed in the presence, and under the careful observation and full view, of all members of the precinct election board, and the votes as indicated by the voting pointers shall not be registered until each member of such board is satisfied that the arrangement of such voting pointers fully carries out the intent of the voter as shown by the cross marks on the paper ballot.

After completion of the count, absentee ballots shall be enclosed in a sealed package, properly endorsed, and returned and filed with the statement of returns.

Sec. 21. Challenged Ballots.—If the right of any person to vote is challenged in accordance with section twenty-five, of article five or section seventeen-a of article four of this chapter, such person shall not be permitted to cast his vote by the use of the voting machine, but shall be supplied by the election commissioners at the polling place with an official printed ballot prepared under section twelve of article four of this chapter or section four of article five of this chapter, and such ballot shall be received subject to sections twenty-five (a) and thirty-one (a) of article five or sections seventeen-b and eighteen-a of article four of this chapter.

Sec. 22. Other Necessary Equipment and Supplies.—In addition to the other equipment and supplies required by this article, there shall be provided for each precinct a sufficient number of printed ballots for the use of voters whose right to vote is challenged, and the necessary equipment and supplies for the reception and safe keeping of absentee voters’ ballots.
Sec. 23. Count of Votes; Machine to Be Locked and Sealed; Announcement of Vote; Return Sheets.—(1) At the count of the votes in any such precinct, any candidate or his individual representative may witness and check the count of the votes therein.
(2) As soon as the polls are closed, and the last voter has voted, the election officers shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and shall then compare the number of voters, as shown by the public counter of the machine, with the number of those who have voted, as shown by the protective or accumulative counter or device. The election officers of each precinct shall then sign a certificate stating: (a) that the machine has been locked against voting and sealed; (b) the number of voters, as shown by the public counters; (c) the number registered on the protective or accumulative counter or device, if any; and (d) the number or other designation of the voting machine; and such certificate shall be returned by the precinct election officers to the ballot commissioners.
(3) The election officers in the presence of any candidate or his individual representative, if any, shall then make visible the registering counters, and for that purpose shall unlock and open the doors or other covering concealing the same, giving full view of all the counter numbers. The election officers shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the election officers, in ink, on triplicate return sheets, and also on a general return sheet and statement, all of which, after the count is completed, shall be signed by the elec-
tion officers. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and triplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the poll books, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective counter on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, triplicate return sheets shall be prepared for each party. The registering counters of the voting machines shall remain exposed to view until the returns and all other reports have been fully completed.

(4) The proclamation of the results of the votes cast shall be announced distinctly and audibly by one of the election officers, who shall read the name of and votes cast for each candidate, and the votes cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the election officers, after which the doors or other cover of the voting machine shall be closed and locked and the return sheets shall be signed by each of the election officers. If any election officers shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in a separate envelope, which shall be securely sealed with sealing wax, or other sealing material, and each of the election officers shall write his or her name across the fold of the envelope. One of the triplicate returns shall be directed and delivered to the clerk of the county court of the county in which the election is being held, one to the circuit court clerk of
such county and one to the secretary of the state at Charleston, West Virginia, and the general return sheet and statement shall be directed and immediately delivered to the clerk of the county court of such county. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number of the seal, and the number registered on the protective counter at the close of the polls.

(5) As soon as possible after the completion of the count, the election officers shall return to the county court and the ballot commissioners the keys to the voting machine received and receipted for by them, and the clerk of the county court shall have the voting machine properly boxed or securely covered and removed from the polling place to a proper and secure place of storage.

Sec. 24. *Form of Return Sheets; Posting Results of Election; Delivery of Return Sheets.*—The general return sheet, triplicate return sheets, and statement, shall be printed to conform with the make of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be reprinted thereon opposite the candidate’s name. Immediately after the vote has been ascertained, the above mentioned return sheets shall be forthwith delivered to the respective persons to whom they are addressed as provided by the general election laws.

Sec. 25. *How Long Machine to Remain Locked After Election; Court Order for Examination of Machine; Contested Elections.*—(1) For a period of fifteen days following any primary election, and for a period of thirty days following any general election or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of such machine,
and such data and such figures shall be examined by such court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election the court in which such contest is pending or the committee before which contest is being heard may, upon motion of any party to such contest, issue an order requiring that such voting machines shall remain continuously locked for such further time as may be reasonable or necessary, with due regard for the preparation of such machines for succeeding primary, general or special election, but in no event shall such order compel that the machine remain locked to a time within thirty days next preceding such approaching primary, general or special election.

(2) During the period when such machine is required to be kept locked, the keys thereto shall remain in the possession of the county court and ballot commissioners. After such period, it shall be the duty of the county court and ballot commissioners to return such keys to the clerk of the county court.

Sec. 26. Discrepancy in Returns; Recanvass of Votes; Notices Required; Correction of Result.—Whenever it appears that there is a discrepancy in the returns of any precinct, or it is alleged in a petition of three voters of any precinct, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, the canvassing boards shall summon the officers of election of the precinct, and such officers, in the presence of the board of canvassers, shall make a record of the number of the seal upon the voting machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before causing such recanvass, the board of canvassers shall give notice in writing to the county clerk and to each candidate, and to the chairman of the county executive committee of each party affected by the canvass, and each such candidate may be present in person, or by attorney, and each of such parties may send two representatives to be present at
such recanvass. If, upon such recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the board of canvassers with the assistance of the county clerk, in the presence of the ballot commissioners and the candidates and their representatives who may be present, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause, if any, of the discrepancy in returns from such machine. Each registering counter shall be reset at zero (000) before it is tested, after which it shall be operated at least one hundred times. After the completion of such examination and test, the county clerk shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the board of canvassers. But the votes as registered on such machine shall nevertheless be accepted on the canvass as votes cast.

Sec. 27. Number of Voters in Precinct.—The provisions of section ten of article one of this chapter with respect to the number of voters to be contained in each precinct shall not apply to precincts in counties in which voting machines have been adopted and the county courts of such county, subject to other provisions of this chapter with respect to the altering or changing of the boundaries of voting precincts, may change the boundaries of precincts or consolidate precincts, as practicable, to achieve the maximum advantage from the use of voting machines.

Sec. 28. Tampering or Impairing the Use of Voting Machines; Penalty.—Any person not an election officer or other public official who shall tamper or attempt to tamper with such voting machines, or in any way intentionally impair or attempt to impair its use, and any such person who shall be guilty of or shall attempt any dishonest practice upon any such voting
machine, or with or by its use, shall be deemed guilty 
of a felony, and, upon conviction thereof, shall be con-
fined in the penitentiary for not less than one year 
nor more than ten years.

Sec. 29. *Tampering or Disarranging of Voting Machine* 
by Election Officials and Public Officers; Penalty.— 
Any clerk of a county court, county commissioner, ballot 
commissioner, election commissioner, or poll clerk, or 
any custodian, technician, or other public official author-
ized to take part in the holding of an election or in pre-
paring for an election, who, with intent to cause or permit 
any voting machine to fail to register correctly all votes 
cast thereon, who tampers with or disarranges such ma-
chine in any way, or any part or appliance thereof, or 
who causes or consents to the use of said machine for 
voting at any election with knowledge of the fact that 
the same is not in order, or not perfectly set and adjusted 
so that it will correctly register all votes cast thereon, or 
who, with the purpose of defrauding or deceiving any 
voter or of causing it to be doubtful for what ticket or 
candidate or candidates or proposition any vote is cast, 
or of causing it to appear on said machine that the votes 
cast for one ticket, candidate or proposition, were cast for 
another ticket, candidate or proposition, removes, changes 
or mutilates any ballot label on said machine or any part 
thereof, or does any other thing intended to interfere 
with the validity or accuracy of the election, 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 ten years.

Sec. 30. *False Swearing or Failure to Disclose Facts in* 
Affidavit by Person Soliciting Voting Machine Bid; Pen-
alty.—Any person who shall knowingly or willfully make 
any false or fraudulent statement, or who shall knowingly 
or willfully fail to disclose any material fact in the affi-
davit required by subsection four of section four of this 
article to be filed by such party or parties submitting bids 
to a county court for the sale or lease of voting machines, 
shall be guilty of a felony, and, upon conviction thereof
shall be punished by a fine of not less than one thousand
dollars nor more than five thousand dollars or imprison-
ment in the state penitentiary for not less than one year
nor more than three years, or both, in the discretion of
the court.

In construing this section, the term “person” shall in-
clude an individual, partnership, committee, association,
and any other organization or group of persons.

Sec. 31. Willful Neglect of Duty by Election Officer;
Penalty.—Any public officer or election officer upon whom
any duty is imposed by this article and who shall willfully
omit or neglect to perform such duty, or who shall do
any act prohibited in this article for which punishment is
not otherwise provided herein, shall be guilty of a mis-
demeanor, and, upon conviction thereof shall be punished
by a fine of not less than five hundred dollars nor more
than one thousand dollars, or imprisonment in the county
jail for not less than sixty days nor more than one year,

or both, in the discretion of the court.

Sec. 32. General Law Applicable to Voting Machines.—
Except as modified by this article, the general laws apply-
ing to regular, special and primary elections shall apply
to elections conducted with the use of voting machines.

If it shall be impracticable for the county court of any
county, after the adoption of voting machines by such
county, to supply the necessary voting machines to each
precinct of such county for use in any election, the hold-
ing of any election in such precincts which have not been
supplied with voting machines, shall be governed by the
general laws with respect to conducting a regular, special
and primary election by the use of printed ballots.

Sec. 33. Use of Voting Machines Authorized in Munic-
ipal Elections.—The county court of any county which
has adopted the use of voting machines is hereby author-
ized to make such machines available to any municipality
in, or partly in, such county for use in elections conducted
by such municipality, and the use of voting machines by
such municipality shall be upon such terms and conditions
as may be agreed upon between the county court and the municipality.

Sec. 34. Severability, if held Unconstitutional.—If any section, subsection, paragraph, sentence, or clause of this article is for any reason held invalid or to be unconstitutional, such decision shall not affect the remaining portion of this article, or any section or part thereof.

CHAPTER 59

(Senate Bill No. 73—By Mr. Bean)

AN ACT to amend and reenact section two, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public uses for which private property may be taken or damaged in condemnation proceedings.

[Passed February 21, 1949; in effect from passage. Approved by the Governor.]

Article 1. Right of Eminent Domain.

Section
2. Public uses for which private property may be taken or damaged.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Public Uses For Which Private Property May Be Taken or Damaged.—The public uses for which private property may be taken or damaged are as follows:

(a) For the construction, maintenance and operation of railroad and traction lines (including extension, lateral and branch lines, spurs, switches and side tracks), canals, public landings, wharves, bridges, public roads, streets, alleys, parks and other works of internal improvement, for the public use;

(b) For the construction and maintenance of telegraph, telephone, electric light, heat and power plants,
systems, lines, transmission lines, conduits, stations
(including branch, spur and service lines), when for
public use;
(c) For constructing, maintaining and operating pipe
lines, plants, systems and storage facilities for manu-
facturing gas and for transporting petroleum oil, natural
gas, manufactured gas, and all mixtures and combina-
tions thereof, by means of pipes, pressure stations or
otherwise, (including the construction and operation of
telephone and telegraph lines for the service of such
systems and plants), and for underground storage areas
and facilities, and the operation and maintenance there-
of, by gas public utilities selling natural gas at retail in
West Virginia for the injection, storage and removal of nat-
ural gas in subterranean oil and/or gas bearing stratum,
which, as shown by previous exploration of the stratum
sought to be condemned and within the limits of the reser-
voir proposed to be utilized for such purposes, has ceased
to produce or has been proved to be non-productive of oil
and/or gas in substantial quantities, when for public use,
the extent of the area to be acquired for such purpose to
be determined by the court on the basis of reasonable need
therefor. Nothing in this subsection shall be construed to
interfere with the power of the state and its political sub-
divisions to enact and enforce ordinances and regulations
deemed necessary to protect the lives and property of
citizens from the effects of explosions of oil or gas:
(d) For constructing, maintaining and operating, water
plants and systems, including lines for transporting water
by any corporate body politic, or private corporation, for
supplying water to the inhabitants of any city, town.
village or community, for public use, including lands for
pump stations, reservoirs, cisterns, storage dams, and
other means of storing, purifying and transporting water
and the right to take and damage lands which may be
flooded by the impounded waters, and to appropriate any
spring, stream and the surrounding property necessary
to protect, preserve and maintain the purity of any such
spring, stream, reservoir, cistern and water impounded
by means of any storage dam;
(e) For the purpose of constructing, maintaining and operating sewer systems, lines and sewage disposal plants, to collect, transport and dispose of sewage. When in the interest of the public welfare and the preservation of the public health, the construction of a sewer line to serve a single building or institution shall be deemed a public use, and, for such purpose, the right of eminent domain, if within a municipal corporation, may be exercised in the name of the municipal corporation, and if not within a municipal corporation, in the name of the county court of the county in which the property is located;

(f) For the reasonable use by an incorporated company engaged in a public enterprise of which the state or any county or municipality is the sole or a part owner;

(g) For courthouses and municipal buildings, parks, public playgrounds, the location of public monuments, and all other public buildings;

(h) For cemeteries, and the extension and enlargement of existing cemeteries: Provided, That no lands shall be taken for cemetery purposes which lie within four hundred feet of a dwelling house, unless to extend the boundaries of an existing cemetery, and then only in such manner that the limits of the existing cemetery shall not be extended nearer than four hundred feet of any dwelling house distant four hundred feet or more from such cemetery, or nearer than it was to any dwelling house which is within four hundred feet thereof;

(i) For public schools, public libraries, and public hospitals;

(j) For the construction and operation of booms (including approaches, landings and ways necessary for such objects), when for a public use;

(k) By the state of West Virginia for any and every other public use, object and purpose not herein specifically mentioned. By the United States of America for each and every legitimate public use, need and purpose of the government of the United States, within the purview, and subject to the provisions of chapter one of this code.
CHAPTER 60

(Senate Bill No. 74—By Mr. Bean)

AN ACT to amend and reenact sections four and six, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the condemnation of land for public use.

[Passed February 21, 1949; in effect from passage. Approved by the Governor.]

Article 1. Right of Eminent Domain.

Section 4. Restrictions as to dwelling houses.

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

Section 4. Restrictions as to Dwelling Houses.—No railroad company, or other company of internal improvement, in locating and constructing its lines, shall invade the dwelling house of any person, or any space within sixty feet thereof, without the consent of the owner, unless necessary so to do in passing through a narrow gorge, defile or narrow pass, or to avoid undesirable curves, angles, and grades, in the construction of its line, or to eliminate such curves, angles, and grades in any line heretofore constructed. This prohibition shall not apply to the territory within any municipal corporation, nor to the acquisition by condemnation of land for any purpose of the company other than right of ways for its main lines and transmission lines.

Sec. 6. Quantity of Land Acquired.—The land acquired by condemnation by any railroad company for its main depots, termini, buildings, machine shops, railroad yards and railroad facilities, and the land or interest therein so acquired by any company incorporated for a work of internal improvement along its line generally, or for any other public use authorized by section two of this
article, shall be limited to such quantity as is necessary for the purpose or purposes for which it is appropriated.

CHAPTER 61

(Senate Bill No. 89—By Mr. Mitchell and Mr. Love)

AN ACT to amend article one, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section thereto to be numbered twenty-two, relating to the leasing of lands owned by the state for purpose of mining the coal thereon by strip mining methods.

[Passed March 9, 1949: in effect July 1, 1949. Approved by the Governor.]


22. Leasing of lands owned by the state for strip-mining coal thereon.

Be it enacted by the Legislature of West Virginia:

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

Section 22.—Leasing of Lands Owned by the State for Strip-Mining Coal Thereon.—No land or interest in land owned by the state shall be leased, and no present lease shall be renewed by the state, nor the board of control, nor any other agency of the state, for the purpose of mining the coal therefrom by the method commonly known as strip mining, unless said lease or renewal shall have been first authorized by an act of the Legislature.

CHAPTER 62

(Senate Bill No. 198—By Mr. Van Camp)

AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding

Section 1. Release of General Powers of Appointment.

2 —Any general power, whether exercisable by will, by deed, by will or deed, or otherwise, to appoint property, whether real or personal or both, is releasable by the person or persons having such power, with or without consideration, wholly or partially. Any such power may be released with respect to the whole or any part of the property subject thereto; and any such power may also be released in such manner as to reduce, limit, or restrict the persons or objects, or classes of persons or objects, to or among any one or more of whom, but no others, the property subject to such power may be appointed by an exercise thereof, as fully as the creator of such power himself could have so reduced, limited or restricted the same and with like effect as if he had.

Sec. 2. Method of Effecting Release of Powers of Appointment.—Any release mentioned in the preceding section may be effected by a written instrument signed and acknowledged as a deed by the person or persons having the general power to appoint mentioned in that section; and such instrument may be delivered by filing it for record in the office of the clerk of the county court of the county wherein the will, deed or other instrument creat-
ing such power is recorded. Such clerk shall record such
instrument of release as a deed is recorded, index it, and
note a reference to the record thereof on the margin of
the record of the will, deed or other instrument creating
such power.

Sec. 3. Release of Other Than General Powers of Appoint-
ment.—Any other power than a general one, whether
exercisable by will, by deed, by will or deed, or other-
wise, to appoint property, real or personal or both, is re-
leaseable to the extent that a release thereof would not be
contrary to any manifest intent or purpose of the creator
of such power expressly set forth in the will, deed or other
instrument creating such power; and to the extent so re-
leaseable it may be released in like manner as above pro-
vided in this article for the release of a general power of
appointment, and with like effect.

Sec. 4. Validity of Release of Power of Appointment
Heretofore Made.—Any release of a general or other re-
leaseable power of appointment heretofore made in con-
formity with the provisions of the foregoing sections of
this article shall be as valid, binding and effective as if
hereafter so made.

Sec. 5. Other Methods of Release of Power of Appointment
Not Affected.—Nothing in this article contained
shall affect the validity of any release of any power of
appointment heretofore or hereafter lawfully effected in
any other form or manner.

CHAPTER 63
(Senate Bill No. 150—By Mr. McNeer)

AN ACT to amend article one-a, chapter twenty of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended by adding thereto a new section to be design-
nated section twelve, relating to license agreements be-
tween the conservation commission of West Virginia and
the federal government.
Article 1-a. Executive Director.

Section 12. Authority of commission to enter into license agreements with federal government.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter twenty 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 twelve to read as follows:

Section 12. Authority of Commission to Enter Into License Agreements with Federal Government.—The state of West Virginia hereby assents to the provisions of Public Law No. 534, Seventy-eighth Congress, as amended by section four of the act of July twenty-four, one thousand nine hundred forty-six (Public Law No. 526, Seventy-ninth Congress) and the commission, through the executive director, is hereby authorized and empowered to enter into license or lease agreements with the federal government as provided for in Public Law No. 534, Seventy-eighth Congress, as amended by section four of the act of July twenty-four, one thousand nine hundred forty-six (Public Law No. 526, Seventy-ninth Congress).

CHAPTER 64

(Com. Sub. for House Bill No. 181—Originating in the House Committee on Game and Fish)

AN ACT to amend and reenact sections one, two, two-a, two-b, two-c, two-d, two-e, two-f, two-g, two-h, three, three-a, three-b, three-c, four, four-a and twelve, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to necessity for hunting and fishing licenses, exemptions, payment of fees, defining classes of hunting, fishing, hunting and fishing licenses, prescribing prerequisites to the issuance thereof, fees therefor, place of license application, alien permits;
disclosures by applicants; size and form of license; contents; information by licensee; impounding license where improperly filled in; issuance of license; supplies furnished to county clerks; carrying and display of license; offenses; penalties; and to repeal section two-i, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

[Passed March 12, 1949; in effect January 1, 1950. Approved by the Governor.]

**Article 7. Hunting and Fishing Licenses.**

**Section**

1. **Necessity for Licensing.**
2. Licenses conditioned on payment of fees; age exemption.
2-a. Class A: resident state-wide hunting license.
2-b. Class B: resident state-wide fishing license.
2-c. Class C: courtesy state-wide hunting and fishing license.
2-d. Class D: Ohio river hunting and fishing license.
2-e. Class E: non-resident state-wide hunting and fishing license.
2-f. Class F: non-resident state-wide fishing license.
2-g. Class G: non-resident single and family state park and state forest fishing license.
2-h. Class H: resident state-wide beaver trapping license.
2-i. Repealed.
3. Where license applications made; alien permits.
3-a. Statement of eligibility for license; necessity for; to whom made; false representation, penalty.
3-b. Size and form of license and tags; contests; information by licensee; and impounding license where not filled in.
3-c. Issuance of license by county clerks.
4. Supplies furnished county clerks.
4-a. Wearing of license tags.
12. Offenses; penalties.

Be it enacted by the Legislature of West Virginia:

That sections one, two, two-a, two-b, two-c, two-d, two-e, two-f, two-g, two-h, three, three-a, three-b, three-c, four, four-a and twelve, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and section two-i, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, all to read as follows:

Section 1. **Necessity for Licensing.**—No person above the age of fifteen years, (except persons over sixty years of age mentioned in the following section) 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 in this
state 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 tenants who are citizens of the United
States 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 therefor 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 organization or asso-
ciation 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 pay-
ment of the fees set forth in 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-a. Class A; Resident State-wide Hunting License.
A class A license shall be a state-wide hunting license
and shall entitle the licensee to hunt in all counties of the
state. It shall be issued only to citizens of the United
States who are residents of this state. The fee therefor
shall be two dollars: Provided, That in any case where a
licensee purchases a class A and a class B license at the
same time, the fee for a class A license shall be one dollar
and fifty cents.

Sec. 2-b. Class B; Resident State-wide Fishing License.—
A class B license shall be a state-wide fishing license and
shall entitle the licensee to fish in all counties of the state.
It shall be issued only to citizens of the United States, and
unnaturalized persons possessing the permit mentioned
in section three of this article, who are residents of this
state. The fee therefor shall be two dollars: Provided,
That in any case where a licensee purchases a class A and
a class B license at the same time the fee for a class B
license shall be one dollar and fifty cents. For conven-
ience, the commission may provide for the issuance, in
those cases where both class A and class B licenses are
issued to a single licensee at the same time, of both class
A and class B licenses upon a single form, but regardless
of such form, each shall be and remain a separate license.

Sec. 2-c. Class C, Courtesy State-wide Hunting and Fish-
ing License.—A class C license shall be a courtesy hunting
and fishing license and shall entitle the licensee to hunt
and fish in all counties of this state. It shall be issued by
the director upon application made to him and without
fee to:
(1) Members and agents of the United States Biological
Survey and Bureau of Fisheries;
(2) Members of state commissions of other states ex-
tending similar courtesies;
(3) Diplomatic and consular representatives of foreign
countries; and
(4) Persons engaged in scientific research.
Not more than fifty courtesy licenses shall be issued in
one year.

Sec. 2-d. Class D; Ohio River Hunting and Fishing Li-
cense.—A class D license shall be an Ohio river hunting
and fishing license and shall entitle the licensee to hunt
and fish in the Ohio river only. It shall be issued only to
citizens of the United States who are residents of the state
of Ohio. The fee shall be one dollar.

Sec. 2-e. Class E; Non-Resident State-wide Hunting and
Fishing License.—A class E license shall be a non-resident
hunting and fishing license and shall entitle the licensee
to hunt and fish in all counties of the state. It shall be
issued only to citizens of the United States who are not
Sec. 2-f. Class F; Non-Resident State-wide Fishing License.—A class F license shall be a non-resident fishing license and shall entitle the licensee to fish in all counties of the state. It shall be issued only to citizens of the United States, and to unnaturalized persons possessing the permit required by section three of this article, who are not residents of this state. The fee therefor shall be ten dollars.

Sec. 2-g. Class G; Non-resident Single and Family State Park and State Forest Fishing License.—A class G license shall be a non-resident family fishing license and shall entitle the licensee and members of his family to fish within the territorial limits of state parks and state forests and in the waters of streams bounding same, for a distance of not to exceed one hundred yards from the exterior boundary of any state park or state forest, for a period not to exceed one week. It may be issued to any adult non-resident who is temporarily residing in any state park or forest as tenant or lessee of the state. The fee therefor shall be two dollars and fifty cents for the head of the family, plus fifty cents additional for each member of his family to whom the privileges of such license are extended. Class G licenses may be issued in such manner and under such regulations as the commission may see fit to prescribe.

Sec. 2-h. 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 beaver; nor shall said license be required of any bona fide resident landowner or bona fide resident tenant, or a child of either under the age of fifteen years in those cases where they may trap beavers upon lands belonging to such landowner, or in possession of such tenant. The fee therefor shall be two dollars.

Sec. 2-i. This section is hereby repealed.

Sec. 3. Where License Applications Made; Alien Permits.—Persons eligible for any class license shall make application therefor, either in person or by agent, in writing or orally, as follows:

(i) For class A, B, E, F and H license, to any county clerk.
(ii) For class D license, to the county clerk of any county bordering the Ohio river.
(iii) For class C license, to the commission; and for class G license, to the commission, or its administrative employees at state parks or state forests.

Aliens desiring to procure licenses shall first apply to the director for a permit to secure such license. If the director satisfies himself that the applicant is legally entitled to such license, and will observe the laws of this state, and particularly the provisions of this chapter, he may issue the permit. Permits, once issued, shall remain in force until revoked. No issuing officer shall be required to issue or deliver any license unless the applicant informs him that the licensee is duly qualified and eligible to receive the class of license applied for, and payment of the required fee is made to such officer.

Sec. 3-a. Statement of Eligibility for License; Necessity For; To Whom Made; False Representation, Penalty.—It shall be the duty of every person who makes application for or procures the issuance of any class of license to himself or another, to correctly inform the issuing officer that the licensee for whom application is made, is eligible, and fulfills the prerequisites of this article in respect of age, citizenship and residence which are necessary to entitle such person to have and hold the class of license applied for; and the possession of any class of license by
any licensee shall presume that such licensee, or his agent, duly informed the issuing officer that the licensee in question was eligible to have, hold and procure the class of license so issued. The procuration of a license by licensee, or another for him, in violation of the provisions hereof shall be unlawful, and punishable as hereinafter provided in this article. It shall not be necessary for the state to prove, in any proceeding for an offense hereunder, that false statements were or were not made, if it be established that the licensee possessed a class of license he was not entitled to possess, or the license procured by the offender for another was of a class the licensee named in the license was not entitled to possess.

Sec. 3-b. Size and Form of License and Tags; Con- tests; Information by Licensee; and Impounding License Where Not Filled In.—The size, content and form of licenses and tags shall be prescribed by the commission. The license shall contain spaces for information disclosing the age, citizenship and residence of the licensee, and his weight, height, color of hair, eyes, and complexion or skin, and any unusual physical characteristics, if any. The information required by this section shall be placed upon the license by the licensee promptly after delivery of the license to him; and in any event, prior to the time he shall hunt or fish in the fields, forests and streams of the state. Any conservation officer who finds a licensee whose license is either not filled in, or is improperly filled in, may require the licensee to properly fill it in at that time and place; and, in event of the licensee's refusal so to do, the officer is hereby authorized to impound such license and the tags, if any, issued with it, and forward same to the commission, with a statement of the facts. The commission in such case may cancel the license, or return it to the licensee as it sees fit. Nothing in this article contained shall subject such licensee to the criminal penalties which are otherwise provided for violations of this article, so long as the license in the possession of the licensee was of the proper class, but the licensee may be punished by loss of this license for his failure or refusal to fill it in properly; and, the provisions of section one of this article
shall apply to him, after his license has been impounded, until such time as he shall have procured a new license, or the license so impounded has been returned to him.

Sec. 3-c. Issuance of License by County Clerks.—The clerk of any county court to whom an application for license is made shall issue it, if, to the best of his knowledge and information the applicant has given him the information required by section three-a of this article and, in his opinion, is legally entitled to obtain the class of license applied for, and pays the proper fee.

A license shall be signed by the clerk of the county court, or his deputy, and shall bear a serial number. The clerk shall deliver to the purchaser any tag, badge, or other license contained which may be furnished by the commission and is required to be worn by licensee. The clerk shall keep an accurate record, in form prescribed by the director, of all licenses issued and of all moneys collected as license fees.

Sec. 4. Supplies Furnished County Clerks.—The director shall prepare and furnish to the clerks of the county courts of the state:

(i) License to be issued to applicants; and

(ii) Tags to be worn by licensees, and badges or containers for licenses, if any are required by the commission.

Sec. 4-a. Wearing of License Tags.—The licensee shall, while exercising the privilege of the license, have his license upon his person at all times. Tags furnished by the commission, bearing the serial number of hunting license, shall be attached and displayed on the outer garment. The license tag for the current year only shall be displayed.

Sec. 12. Offenses; Penalties.—Any person violating any provision of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for each offense, be fined not less than ten nor more than one hundred dollars, or confined in jail not more than ninety days, or both fined and imprisoned within the limitations aforesaid.
CHAPTER 65
(House Bill No. 355—By Mr. Davis)

AN ACT authorizing and empowering the conservation commission of the state of West Virginia to lease a camp site within the Kanawha state forest, on the waters of Davis creek, Loudon district, Kanawha county, West Virginia, to the Boy Scouts of America, for the purpose of constructing, erecting and maintaining a boy scout camp therein.

[Passed March 9, 1949; in effect from passage. Approved by the Governor.]

Section 1. Conservation commission authorized to lease a camp site in the Kanawha state forest to the Boy Scouts of America.

Be it enacted by the Legislature of West Virginia:

Section 1. Conservation Commission Authorized to Lease a Camp Site in the Kanawha State Forest to the Boy Scouts of America.—The conservation commission of West Virginia is hereby authorized and empowered to lease a camp site within the confines of the Kanawha state forest, situate in Loudon district, Kanawha county, West Virginia, to the Boy Scouts of America, for the purpose of constructing, erecting and maintaining a boy scout camp therein for the exclusive use of said Boy Scouts of America; and the said conservation commission of West Virginia is hereby authorized and empowered to enter into such lease agreement with the Boy Scouts of America under such terms and conditions as the commission shall deem proper. No such lease shall be for any period longer than ninety-nine years.

CHAPTER 66
(Com. Sub. for House Bill No. 37—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section two, article three, chapter six of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the removal of officers.

[Passed March 10, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 3. Deputy Officers and Conservators of the Peace.

Section 2. Removal of deputy.

Be it enacted by the Legislature of West Virginia:

That section two, article three, 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. Removal of Deputy.—Any deputy appointed pursuant to section one of this article, may, at any time, be removed from office by his principal, or by the court, or other tribunal in lieu thereof, by and with the consent of which he was appointed. Provided, however, That nothing herein contained, or elsewhere in the laws of this state provided, except the procedure for removal of officers set forth in section seven, article six, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, shall empower or be construed to authorize the removal, or revocation of appointment and confirmation of any deputy sheriff by any tribunal, officer or body whatsoever, except by the sheriff by whom he was appointed, unless good cause be shown for such removal, dismissal or revocation of appointment.

CHAPTER 67

(House Bill No. 219—By Mr. Carroll)

AN ACT to amend and reenact section four, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the general duties of the insurance commissioner.

Section 4. General duties of commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 4. General Duties of Commissioner.—The commissioner shall see that all laws respecting insurance companies are faithfully executed; shall affix a seal of the state insurance department to all documents and papers required to be filed in other states by companies domiciled in this state, or to other documents and papers when an official seal of the department is required; shall furnish to each insurance company doing business in this state printed forms of the annual financial statements required by law; shall on or before the tenth day of each month pay into the state treasury all the fees which he may have received during the month previous; and may administer oaths in the discharge of his duties. He shall report to the governor changes which, in the opinion of the commissioner, should be made in the laws relating to insurance.

CHAPTER 68

(House Bill No. 236—By Mr. Campbell, of Cabell, by request)

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 thirty-eight, relating to the imposition of a
tax upon annuity considerations received by life insurance companies.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section 38. Tax upon annuity considerations.

Be it enacted by the Legislature of West Virginia:

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

Section 38. Tax Upon Annuity Considerations.—Every life insurance company licensed to transact business in this state shall make a return annually, on or before the first day of March, to the insurance commissioner, under the oath of its president or secretary, of the gross amount of annuity considerations collected and received by it during the previous calendar year on business done in this state; and upon receiving from the commissioner a certificate of the acceptance of such return and of the amount of tax due thereon, such company shall pay such tax to the insurance commissioner annually on or before the first day of March. The annual tax which a licensed insurance company is required to pay to the state on such considerations shall be a sum equal to one per centum of the gross amount of annuity considerations received by it on the business written or renewed in this state, less annuity considerations returned and less termination allowances on group annuity contracts. All such taxes paid to the commissioner shall be paid by him into the state treasury for the benefit of the state fund.

The tax imposed by this act shall be first payable in the year one thousand nine hundred forty-nine, on the basis of taxable annuity considerations collected and received by insurance companies during the year one thousand nine hundred forty-eight.
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-eight, relating to the payment of commission under an assigned risk plan.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 2. General Provisions.

Section 48. Payment of commission under an assigned risk plan.

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-eight, to read as follows:

Section 48. Payment of Commission Under an Assigned Risk Plan.—An insurer participating in a plan for assignment of personal injury liability insurance or property damage liability insurance on owner’s automobiles or operators, which plan has been approved by the insurance commissioner of this state, may pay a commission to a qualified agent who is licensed to act as agent for any insurer participating in such plan when such agent is designated by the insured as the producer of record under an automobile assigned risk plan pursuant to which a policy is issued under such plan.

CHAPTER 70

(Com. Sub. for House Bill No. 234—Originating in the House Committee on Insurance)

AN ACT to repeal sections twenty, twenty-one, twenty-two, twenty-three, twenty-five and twenty-six, article three,
chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article by adding thereto twelve new sections to be numbered, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven and forty-eight, all relating to the investment of the capital, surplus, assets and other funds of life insurance companies organized under the laws of this state.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

**Article 3. Life Insurance.**

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Be it enacted by the Legislature of West Virginia:

That sections twenty, twenty-one, twenty-two, twenty-three, twenty-five and twenty-six, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that said article be amended by adding thereto twelve new sections to be numbered thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven and forty-eight, to read as follows:

Section 37. **Authorized Investments.**—The capital, surplus, assets, and other funds of life insurers organized under the laws of this state shall be invested as provided in this article, and not otherwise.

Sec. 38. **General Qualifications.**—No security or other investment shall be eligible for purchase or acquisition
unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon; except real estate, as provided by section forty-one of this article. No security shall be eligible for purchase at a price above its market value.

Sec. 39. General Limitation Any One Person.—An insurer shall not have at any time, except with the consent of the commissioner, any combination of investments in or loans upon the security of the obligations, property, and securities of any one person, institution, or municipal corporation aggregating an amount exceeding five percent of the insurer’s assets. This section shall not apply to investments in or loans upon the security of general obligations of or obligations fully guaranteed by the government of the United States or of any state or territory of the United States, or the District of Columbia, or to political subdivisions of the state of West Virginia, nor to investments in foreign securities pursuant to paragraph (a) of section forty-two nor to policy loans made pursuant to section forty-five of this article.

Sec. 40. Investments in Securities. (a) Any domestic insurer may invest in the following securities:

(1) Bonds or securities which are the direct obligation of or which are secured or guaranteed in whole or in part as to principal and interest by the United States, any state or territory of the United States, or the District of Columbia, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness, and, in bonds issued by the federal land banks.

(2) Bonds or evidences of indebtedness which are direct general obligations of any county, district, city, town, village, school district, park district, or other political subdivision of this state or any other state or territory of the United States, or the District of Columbia, or of the Dominion of Canada, which shall not be in default in the payment of any of its general obligation bonds, either principal or interest, at the date of such invest-
ment; where they are payable from ad valorem taxes levied on all the taxable property located therein and the total indebtedness after deducting sinking funds and all debts incurred for self-sustaining public works does not exceed ten percentum of the actual value of all taxable property therein on the basis of which the last assessment was made before the date of such investment.

(3) Obligations issued or guaranteed by the international bank for reconstruction and development.

(4) Entire first mortgages on improved unencumbered real estate or the entire issue of bonds secured thereby located within any of the states of the United States or the District of Columbia worth at least fifty percentum more than the amount loaned thereon, based on sound appraisal by a competent appraiser and duly certified by him, provided that the investment in any one mortgage or any one issue of bonds or any one contract for deed does not exceed twenty thousand dollars or two percentum of the company's assets, whichever is the greater.

"Improved real estate", as used in this section, means all farm land which has been reclaimed and is used for the purpose of husbandry, whether for tillage or pasture, and all real property on which permanent buildings suitable for residence or commercial use are situated. Real property shall not be deemed to be encumbered within the meaning of this section by reason of the existence of instruments reserving or excepting mineral rights and interests, rights-of-way, sewer rights and rights in walls or easements, nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it is subject to lease under which rents or profits are reserved to the owners: Provided, That the security for such investment is a full and unrestricted first lien upon such real property and that there is no condition nor right of re-entry or forfeiture under which such investments can be cut off, subordinated or otherwise disturbed.

Notwithstanding the restrictions herein set forth any domestic insurer may invest (1) in bonds or notes
secured by mortgage or trust deed insured by the federal
housing administration or in debentures issued by it un-
der the terms of an act of Congress of the United States
entitled the "National Housing Act", as heretofore or
hereafter amended and (2) in securities issued by na-
tional mortgage associations established by or under the
authority of the National Housing Act, and (3) in bonds
or notes secured by mortgage or trust deed guaranteed
as to principal by the administrator of veterans' affairs
pursuant to the provisions of Title III of Act of Congress
of the United States as of June twenty-two, one thousand
nine hundred forty-four, entitled the "Servicemen's Re-
Adjustment Act of one thousand nine hundred forty-
four", as heretofore or hereafter amended.
Notwithstanding the restrictions herein set forth the
amount of any first mortgage investment as limited by
the first paragraph of this subsection (4) may be ex-
ceeded if and to the extent that such excess shall be
guaranteed by the administrator of veterans' affairs pur-
suant to the provisions of Title III of an Act of Congress
of the United States of June twenty-two, one thousand
nine hundred forty-four, entitled the "Servicemen's Re-
Adjustment Act of one thousand nine hundred forty-
four", as heretofore or hereafter amended.
No such domestic insurer shall in any manner, either
directly or indirectly, by means of corporations, holding
companies, trustees or otherwise, invest in real estate
securities junior to first mortgages unless the first mort-
gage in its entirety is owned by the insurer.
(5) Subject to the limit set forth in subsection (b),
bonds, or evidence of indebtedness issued or guaranteed
by any railroad corporation or corporations (other than
those organized and chartered for the sole purpose of
holding stock of other corporations) created under the
laws of the United States or any of the states of the
United States or the District of Columbia or any certifi-
cates of any equipment trust created on behalf of any
such railroad corporation.
(6) Subject to the limit set forth in subsection (b),
bonds or evidence of indebtedness of any solvent public
utility corporation or corporations (other than those
(7) Subject to the limit set forth in subsection (b), bonds or evidences of indebtedness issued by any solvent corporation or corporations (other than those mentioned in paragraphs (5) and (6) and other than corporations organized and chartered for the sole purpose of holding the stock of other corporations) created under the laws of the United States or of any of the states of the United States or the District of Columbia.

(8) Preferred or guaranteed stock issued or guaranteed by any solvent corporation or corporations created under laws of the United States or any of the states of the United States or the District of Columbia: Provided, That such stock are not in default as to payment of any current dividends.

Such domestic insurer shall not invest in or loan any of its funds on its own stocks.

(9) Loans upon the pledge of bonds, mortgages, securities, stock or evidence of indebtedness acceptable as investment for the lending insurer under the terms of this article and subject to the same limits as to each security as is provided herein for investment, if the face or current market value whichever is less of such mortgages is more than the amount loaned thereon, and the current market value of such bonds, securities, preferred or guaranteed stock or evidences of indebtedness is at least twenty percentum more than the amount loaned thereon. This limitation shall not apply to loans on the pledge of bonds or securities of or guaranteed by the United States.

(10) Shares of insured state chartered building and loan associations and federal savings and loan associations, if such shares are insured by the federal savings and loan insurance corporation as specifically set forth under the terms of Title IV of an Act of the Congress of the United States entitled the “National Housing Act”.

(11) In bank certificates of deposit and bankers’ ac-
ceptances, and other bills of exchange of the kind and maturities made eligible by law for purchase in the open market by federal reserve banks.

(b) Any domestic life insurer, in addition to the investments permitted by subsection (a), may invest in the shares of capital stock and securities of any solvent corporation created under the laws of the United States, or of any of the states of the United States, or the District of Columbia: Provided, That such corporation has earned during any three of the five fiscal years next preceding the date of the investment, a sum applicable to dividends equal in the aggregate to not less than twelve percentum of the par value (or, in the case of shares having no par value, the issue value) of its outstanding shares. Such insurer shall not invest in more than five per centum of the total number of shares of any one such corporation, or more than two per centum of its assets in the shares (or securities) of any one such corporation, nor shall it invest in shares and securities permitted by this subsection, more than the amount of its capital and surplus in the case of a stock company, or surplus in the case of a company other than stock.

Sec. 41. Restriction on Acquisition and Holding of Real Property.—(a) No domestic life insurer may acquire or hold real property except as follows:

(1) Such as shall be requisite for the convenient accommodation of the transaction of its own business; the amount invested in such real property shall not exceed five percentum of the investing insurer's assets but the commissioner may grant permission to the insurer to invest in real property for such purpose, in such increased amount as he may deem proper on the showing made if, upon a hearing held before him, he shall find that the amount represented by such percentage of its assets is insufficient to provide convenient accommodations for the insurer's business.

(2) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for monies due;

(3) Such as shall have been conveyed to it in satis-
faction of debts previously contracted in course of its dealings;

(4) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts; and

(5) Such unencumbered real property as shall have been acquired in whole or in part, in exchange for real property of approximately the same value theretofore legally acquired and held by it;

(6) Such as shall be held as security for contracts for deeds;

(7) (A) Such as may be acquired for the purpose of leasing the same to any person, firm, or corporation, or real estate already leased under the following conditions;

a. (1) Where there has already been erected on said property a building or other improvements satisfactory to the purchaser, or (2) where the lessee shall at its own cost erect thereon, free of liens, a building or other improvements satisfactory to the lessor, or (3) where the lessor under the terms and conditions of a lease executed and entered into simultaneously with the purchase of the property agrees to erect a building or other improvements on said property.

b. That the said improvements shall remain on the said property during the period of the lease, and in cases where the said improvements are put upon said property at the cost of the lessee the said improvements at the termination of the lease shall vest, free of liens, in the owner of the real estate.

c. That during the term of the lease the lessee shall keep and maintain the said improvements in good repair.

Real estate acquired pursuant to the provisions of this part (A) shall not be valued in an amount exceeding the amount actually invested reduced each year by equal decrements sufficient to write off at least seventy-five percent of the investment at the normal termination of the lease or at the end of thirty years should the term of the lease be for a longer period. The total investments of any company under this part (A) shall not exceed five
per cent of its assets, nor more than the sum of its capital and surplus, whichever is less.

(B) Subject to approval of the commissioner, real estate for recreation, hospitalization, convalescence and retirement purposes of its employees. Such investment shall not exceed five per cent of the company's surplus.

(C) No investment shall be made by any company pursuant to this paragraph (7) which will cause such company's investment in all real property owned or held by it directly or indirectly to exceed ten per cent of its assets.

(b) All real property acquired for purposes, or in the manner, specified in paragraphs other than paragraphs (1), (6) and (7) of subsection (a) of this section may be held for a period of five years after the insurer shall have acquired title to the same and thereafter until the date specified in an order issued by the commissioner directing the insurer to dispose of the same. The date specified in such order shall be not less than six months from the date of the service of the said order upon the insurer. No such order shall be issued without a hearing and a determination by the commissioner that the interests of the insurer will not suffer materially by the sale of the same within the period to be specified.

Sec. 42. Foreign Securities.—(a) An insurer authorized to transact insurance in a foreign country may invest any of its funds, in aggregate amount not exceeding by more than five per cent, its deposit and reserve obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to those required pursuant to this chapter for investments in the United States.

(b) An insurer may invest any of its funds, in an aggregate amount not exceeding five per cent of its assets, in addition to any amount permitted pursuant to paragraph (a) of this section, in obligations of the governments of Canadian provinces or municipalities, and in obligations of Canadian corporations which are otherwise of equal quality to like United States public or corporate securities as prescribed in this act.
Sec. 43. When Restrictions not Applicable.—(a) The restrictions of sections forty and forty-one shall not apply to securities or other assets acquired through merger or consolidation with any other insurer or through a reinsurance agreement, if such assets when originally acquired constituted legal investments for the merger, consolidated, or ceding insurer which acquired them, nor shall provisions apply to securities, obligations or other assets accepted incident to the adjustment or realization of any debt or investment when deemed by the board of directors or investment committee to be in the best interests of the insurer, but subject to the provisions of subsection (b) all such securities, obligations or other assets so acquired or accepted after the effective date of this act which are not in accordance with the provisions of this chapter shall be disposed of not later than five years after the date of such acquisition or acceptance, or if acquired prior to the effective date of this act, not later than five years after such effective date.

(b) The commissioner upon application by the insurer may extend the time for the disposition of such securities, obligations or other assets for such period or periods as he may deem proper on the showing made, if he is satisfied that such insurer will suffer materially by the forced sale thereof; and the commissioner shall grant a hearing to the insurer upon request.

Sec. 44. Excessive Commissions Prohibited; Interest of Officers and Directors.—No domestic insurer shall pay any commission or brokerage for the purchase or sale of property in excess of that usual and customary at the time and in the locality where such purchases or sales are made. No officer or director of a life insurance company shall receive any money or valuable thing for negotiating or recommending any loan or investment from such company, or for selling or aiding in the sale of stocks, securities or property to or by such company.

Sec. 45. Authorization of Investments.—No investment, loan, sale or exchange thereof shall, except as to the policy loans of a life insurer, be made by any domestic insurer
unless authorized or approved by its board of directors
or by a committee thereof charged by the board of direc-
tors or by the by-laws with the duty of making such in-
vestments, loan, sale or exchange. The minutes of any
such committee shall be recorded and reports thereof shall
be submitted to the board of directors for approval or
disapproval.

Sec. 46. Record of Investments.—As to each investment
or loan of the funds of a domestic life insurer a written
authorization thereof in permanent form shall be made,
and signed by the officer or chairman of the committee
authorizing the investment or loan.

Sec. 47. When Investments Must Comply.—The invest-
ments in securities and real estate of all domestic insurers
shall be made to conform to the requirements of this act
by not later than five years after the effective date of
this act, but the commissioner may, on application by
the insurer, extend the time for such conformance for
such period or periods as he may deem proper on the
showing made, if he is satisfied that such insurer will
suffer materially by the forced sale of any securities or
property not conforming; and the commissioner shall
grant a hearing to the insurer upon request: Provided,
That any investments in common stocks lawfully made
prior to the effective date of this act may be retained by
such insurers, any provisions of this act to the contrary
notwithstanding.

Sec. 48. Personal Liability and Penalty for Improper
Loan or Investment; Inconsistent Acts Repealed.—Every
officer or director of a life insurance company knowingly
consenting to a loan or investment, in willful violation
of any of the provisions of sections thirty-seven, thirty-
eight, thirty-nine, forty, forty-one, forty-two, forty-three,
fifty-four, forty-five or forty-six of this article shall be
personally liable to the company for any loss which may
be sustained by such loan or investment, to be recovered
in an action to be brought by the insurance commissioner
on the complaint of any policyholder or stockholder in
AN ACT to amend and reenact section one, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the scope of fire insurance.

[Passed February 24, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 4. Fire and Marine Insurance.

Section 1. Scope of fire insurance.

Be it enacted by the Legislature of West Virginia:

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

Section 1. **Scope of Fire Insurance.**—Insurance companies authorized under the laws of this state having power to insure against loss by fire may make insurance (a) against loss or damage to dwelling houses, stores and all kinds of buildings and household furniture, goods, merchandise and chattels of every description, and all other property by fire, lightning, windstorm, tornado, cyclone, earthquake, hail, frost or snow, weather or climatic conditions, including excess or deficiency of moisture, flood, rain or drought, rising of the waters of the ocean or its tributaries and rivers, bombardment, invasion, insurrection, riot, strike, civil war or commotion, military or
(b) Against loss or damage by insects or disease to farm crops or products and loss of rental value of land used in producing such crops or products;

(c) Against loss or damage by water or other fluid to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, or of other conduits or containers, or by water entering through leaks or openings in buildings and of water pipes, and against accidental injury to such sprinklers, pumps, apparatus, conduits, containers or water pipes;

(d) Against loss or damage upon vessels, boats, cargoes, goods, merchandise, freight and other property by all or any of the risks of lake, river, canal and inland navigation and transportation;

(e) Against loss or damage upon automobiles and all types of motor vehicles (including any other vehicles such as trailers used in connection with motor vehicles), and airplanes, seaplanes, dirigibles, or other aircraft, whether stationary or being operated under their own power, which shall include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property or to person, loss of use, as well as include comprehensive coverage of risks of all types, resulting from the ownership, maintenance, or use of automobiles and all types of motor vehicles (including any other vehicles such as trailers used in connection with motor vehicles), airplanes, seaplanes, dirigibles, or other aircraft;

(f) Against loss by burglary or theft, vandalism or malicious mischief, or the wrongful conversion, disposal or concealment of automobiles and all types of motor vehicles (including any other vehicles such as trailers used in connection with motor vehicles), whether held under conditional sale contract or subject to chattel mortgages. Such companies may insure against any one or more of such hazards, and shall have the right to effect reinsurance of any risks taken by them in companies authorized and admitted to do business in this state or approved by the insurance commissioner, but the subject of the insur-
ance and the risks, hazard or peril insured against shall be expressly set forth in the policy of insurance. This section shall not apply to insurance against loss caused by breach of trust. The insurance commissioner may, for good cause shown or on application of the company, limit the license of a company to make insurance to any one or more of the perils or coverages, including reinsurance, authorized herein.

CHAPTER 72

(House Bill No. 347—By Mr. Trent, by request)

AN ACT to amend and reenact section seven, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fire and marine insurance.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 4. Fire and Marine Insurance.

Section 7. Form of fire policies.

Be it enacted by the Legislature of West Virginia:

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

Section 7. Form of Fire Policies.—(a) The printed form of a policy of fire insurance, as set forth in subsection (f) shall be known and designated as the standard fire insurance policy of the state of West Virginia. (b) No policy or contract of fire insurance shall be made, issued or delivered by any insurer or by any agent or representative thereof, on any property in this state, unless it shall conform as to all provisions, stipulations, agreements and conditions, with such form of policy: Provided, however, That any company organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state.
14 There shall be printed at the head of said policy the
15 name of the insurer or insurers issuing the policy; the
16 location of the home office thereof; a statement whether
17 said insurer or insurers are stock or mutual corporations;
18 and there may be added thereto such device or devices
19 as the insurer or insurers issuing said policy shall desire.
20 The standard fire insurance policy provided for herein
21 need not be used for effective reinsurance between in-
22 surers.
23 If the policy is issued by a mutual insurer having spe-
24 cial regulations with respect to the payment by the policy-
25 holder of assessments, such regulations shall be printed
26 upon the policy, and any such insurer may print upon the
27 policy such regulations as may be appropriate to or re-
28 quired by its form of organization.
29 (c) Binders or other contracts for temporary insur-
30 ance may be made, orally or in writing, for a period which
31 shall not exceed sixty days, and shall be deemed to include
32 all the terms of such standard fire insurance policy and all
33 such applicable endorsements, approved by the insurance
34 commissioner, as may be designated in such contract of
35 temporary insurance; except that the cancellation clause
36 of such standard fire insurance policy, and the clause
37 thereof specifying the hour of the day at which the
38 insurance shall commence, may be superseded by the ex-
39 press terms of such contract of temporary insurance.
40 Earned premiums for binders or other contracts for tem-
41 porary insurance shall be computed and paid for at rates
42 approved by the insurance commissioner.
43 (d) Two or more insurers authorized to do in this state
44 the business of fire insurance, may, with the approval of
45 the insurance commissioner, issue a combination standard
46 form of fire insurance policy which shall contain the fol-
47 lowing provisions:
48 (1) A provision substantially to the effect that the in-
49 surers executing such policy shall be severally liable for
50 the full amount of any loss or damage, according to the
51 terms of the policy, or for specified percentages or amounts
52 thereof, aggregating the full amount of such insurance
53 under such policy;
(2) A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

(e) Appropriate forms of supplemental contract or contracts or extended coverage endorsements whereby the interest in the property described in such policy shall be insured against one or more of the perils which the insurer is empowered to assume, in addition to the perils covered by said standard fire insurance policy, may be approved by the insurance commissioner, and their use in connection with a standard fire insurance policy may be authorized by him. The first page of the policy may in form approved by the insurance commissioner be rearranged to provide space for the listing of amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached, and such other data as may be conveniently included for duplication on daily reports for office records.

(f) The form of the standard fire insurance policy of the state of West Virginia (with the right to number the lines, if desired, in the provisions and stipulations on page two of the form and to substitute for the word "company" a more accurate descriptive form for the type of insurer) shall be as follows:

No.

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.)

(Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.)

In consideration of the provisions and stipulations herein or added hereto and of .................................... Dollars Premium this company, for the term of ............................................ at noon, Standard
280

Time, at location of property involved, to an amount not exceeding .......................... Dollars, does and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREIN-AFTER PROVIDED, to the property described herein- after while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for pres-ervation from elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the forego-

ing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, to-gether with such other provisions, stipulations and agree-ments as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at

....................................................

President.

Secretary.

Countersigned this day of 19__

Agent.
Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy, caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other Insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or (c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy
shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provisions be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss
to the mortgagee, be subrogated to all the mortgagee's
rights of recovery, but without impairing mortgagee's
right to sue; or it may pay off the mortgage debt and
require an assignment thereof and of the mortgage. Other
provisions relating to the interests and obligations of such
mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for
a greater proportion of any loss than the amount hereby
insured shall bear to the whole insurance covering the
property against the peril involved, whether collectible or
not.

Requirements in case loss occurs. The insured shall
give immediate written notice to this Company of any
loss, protect the property from further damage, forthwith
separate the damaged and undamaged personal property,
put it in the best possible order, furnish a complete in-
ventory of the destroyed, damaged and undamaged prop-
erty, showing in detail quantities, costs, actual cash value
and amount of loss claimed; and within sixty days after
the loss, unless such time is extended in writing by this
Company, the insured shall render to this Company a
proof of loss, signed and sworn to by the insured, stating
the knowledge and belief of the insured as to the follow-
ing: the time and origin of the loss, the interest of the
insured and of all others in the property, the actual cash
value of each item thereof and the amount of loss thereto,
all encumbrances thereon, all other contracts of insur-
ance, whether valid or not, covering any of said property,
any changes in the title, use, occupation, location, posses-
sion or exposures of said property since the issuing of this
policy, by whom and for what purpose any building here-
in described and the several parts thereof were occupied
at the time of loss and whether or not it then stood on
leased ground, and shall furnish a copy of all the descrip-
tions and schedules in all policies and, if required; verified
plans and specifications of any building, fixtures or ma-
achinery destroyed or damaged. The insured, as often as
may be reasonably required, shall exhibit to any person
designated by this Company all that remains of any prop-
erty herein described, and submit to examinations under
oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

**Appraisal.** In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

**Company's options.** It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

**Abandonment.** There can be no abandonment to this Company of any property.

**When loss payable.** The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by
agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

ATTACH FORM BELOW THIS LINE

Standard Fire Insurance Policy of the State of

Expires

Property

Assured

No.

(COMPANY)

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

CHAPTER 73

(House Bill No. 215—By Mr. Morgan)

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

[Passed February 24, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 4. Fire and Marine Insurance.

Section 18. Deviations; judicial review.
Be it enacted by the Legislature of West Virginia:

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

Section 18. Deviations; Judicial Review.—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 chapter thirty-three, article four-a, section three. 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. Judicial review of the commissioner’s action respecting any deviation may be had by any party, as provided in chapter thirty-three, article four-a, section seventeen.
AN ACT to amend and reenact section twenty-one, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to exemptions from fire insurance statutes.

[Passed February 25, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 4. Fire and Marine Insurance.
Section 21. Exemptions; right to secure information; adjustments obligatory at request of any company; charges.

Be it enacted by the Legislature of West Virginia:

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

Section 21. Exemptions; Right to Secure Information; Adjustments Obligatory at Request of Any Company; Charges.—This article shall not apply to farmers' mutual insurance companies organized under the laws of this state; nor to the rolling stock of railroad corporations, or property in transit while in the possession of railroad companies or other common carriers, nor to the property of such common carriers used or employed by them in their business of carrying freight, merchandise or passengers: Provided, however, That any company, association, or person, licensed under the insurance laws of this state, may at their request be entitled to receive any or all of the rates, bulletins, and other information published or prepared by such rate making association, on payment of such reasonable charges as may be made: Provided further, That it shall be obligatory upon any adjuster, adjusting bureau or corporation making adjustments on any property or properties, insured in this state by more than one company, to make adjustments for any or all companies making request for same, charging each company making such request a pro rata amount of the expenses incurred in making such adjustment.
CHAPTER 75

(House Bill No. 260—By Mr. Trent, by request)

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, to be designated article seven-a, relating to excess line brokers and licensing thereof.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 7-a. Excess Line Brokers.

Section

1. Licensing of excess line brokers.
2. Application for license.
3. License fee.
4. Term of license and renewal thereof.
5. Affidavit of licensee when insurance is procured.
6. Records required to be kept by licensee.
7. Bond.
8. Reports by licensee to insurance commissioner; amount and payment of tax on gross business.

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 and reenacted by adding thereto a new article, to be designated article seven-a, to read as follows:

Section 1. Licensing of Excess Line Brokers.—The insurance commissioner may issue an excess line broker's license to any person who is domiciled or maintains an office in this state and is licensed as an insurance agent under article seven, section one of this chapter, or as a nonresident insurance broker under article seven, section five of this chapter, authorizing such licensee to procure, subject to the restrictions herein provided, policies of insurance against loss or damage to property or person from any cause, from insurers which are not authorized to transact business in this state. Such license may be suspended or revoked by the insurance commissioner whenever, in his judgment, such suspension or revocation will best promote the interests of the people of this state.
Sec. 2. Application for License.—Before any such li-
2 cense shall be issued by the commissioner, and before
3 each renewal thereof, there shall be filed in his office a
4 written application by the person desiring such license,
5 in such form, or forms, and supplements thereto, and con-
6 taining such information as the commissioner may pre-
7 scribe.

Sec. 3. License Fee.—At the time of application for every
2 such license and for every renewal thereof, there shall
3 be paid to the commissioner by each applicant, a fee of
4 fifty dollars.

Sec. 4. Term of License and Renewal Thereof.—Every
2 license issued pursuant to this section shall be for a term
3 expiring on the thirty-first day of March next following
4 the date of its issuance and may be renewed for the en-
5 suing license year, upon the filing of an application in
6 conformity with subsection two and paying the fee pre-
7 scribed by subsection three.

Sec. 5. Affidavit of Licensee When Insurance Is Pro-
2 cured.—When any policy of insurance is procured under
3 the authority of such license, there shall be executed by
4 the licensee an affidavit showing that such licensee was
5 unable, after diligent effort, to procure from any author-
6 ized insurer or insurers the full amount of insurance re-
7 quired to protect the property owned or controlled by an
8 insured and further showing that the amount of insurance
9 procured from an unauthorized insurer or insurers is only
10 the excess over the amount so procurable from authorized
11 insurers. Such affidavit shall be filed by such licensee
12 with the commissioner within thirty days after such poli-
13 cies have been procured.

Sec. 6. Records Required to Be Kept by Licensee.—
2 The licensee shall keep a complete and separate record
3 of all policies procured from unauthorized insurers under
4 such license. Such records shall be open to the examina-
5 tion by the commissioner, as provided in article seven,
6 section nine of this chapter, at all reasonable times and
7 shall show: (a) the exact amount of insurance permitted
8 under this section which has been procured for each in-
sured; (b) the gross premiums charged by the insurers for the insurance permitted under this section; (c) the amount of premiums permitted by this section which were returned to each insured; (d) the name of the insurer or insurers which issued each of said policies; (e) the effective dates of such policies; (f) the terms for which they were issued; and (g) the location of the risk within this state.

Sec. 7. Bond.—No such license and no renewal thereof shall be granted unless the applicant shall have filed with the commissioner a bond, payable to the state of West Virginia, in the penal sum of two thousand dollars, approved by the attorney general as to form and by the commissioner as to sufficiency of the security thereof. Such bond shall be conditioned that the said licensee will faithfully comply with all the requirements of this section.

Sec. 8. Reports by Licensee to Insurance Commissioner; Amount and Payment of Tax on Gross Business.—Every person licensed, pursuant to the provisions of this article, shall make a return annually, under oath, on or before the first day of March, to the insurance commissioner of the gross amount of premiums charged the insureds by the insurers for insurance procured by such licensee, pursuant to such license during the previous calendar year; and upon receiving from the commissioner a certificate of the acceptance of such return and of the amount of tax due thereon, the person making such return shall pay such tax to the insurance commissioner annually on or before the first day of March. The annual tax required to be paid, under the provisions of this section, shall be a sum equal to two percent of the gross premiums received on the gross business procured by such licensee on risks located in this state and obtained pursuant to the provisions of this article, including any so-called dividends on participating insurance policies applied in reduction of premiums, less premiums returnable for cancellation. All such taxes paid to the commissioner shall be paid by him into the state treasury for the benefit of the state fund.
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 to be designated article fifteen, relative to the regulation of rates for certain casualty insurance including fidelity, surety and guaranty bonds and all other forms of motor vehicle insurance, and to rating organizations.

[Passed March 12, 1949; in effect April 1, 1949. Approved by the Governor.]

Chapter 76

(House Bill No. 175—By Mr. Trent, by request)

Article 15. Casualty Insurance Rates and Rating Organizations.

Section
1. Purpose of article.
2. Scope of article.
4. Rate filings.
5. Disapproval of filings.
6. Alternative filing section.
7. Rating organizations.
8. Deviations.
9. Appeal by minority.
10. Information to be furnished insureds; hearings and appeals of insureds.
11. Advisory organizations
12. Joint underwriting or joint reinsurance.
14. Rate administration.
15. False or misleading information.
17. Rebates prohibited.
18. Penalties.
19. Hearing procedure and judicial review.
20. 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 fifteen, to read as follows:

Section 1. Purpose of Article.—The purpose of this article is to promote the public welfare by regulating certain
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 competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose hereof, 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 casualty insurance including fidelity, surety and guaranty bonds, and to all other forms of motor vehicle insurance, on risks or operations in this state, except:
(a) Reinsurance, other than joint reinsurance to the extent stated in section twelve;
(b) Accident and health insurance;
(c) Insurance against loss of or damage to aircraft or against liability, other than employers' liability, arising out of the ownership, maintenance or use of aircraft; and
(d) Title insurance.
This article applies 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.
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 of insurance, hereinafter referred to as 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) All rates shall be made in accordance with the following provisions:
1. Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, 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, to such factors as expense, management, individual experience, underwriting judgment, degree or nature of hazard or any other reasonable considerations, provided such factors apply to all risks under the same or substantially the same circumstances or conditions, and to all other relevant factors within and outside this state;

2. The system of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

3. Risk may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

4. Rates shall not be excessive, inadequate or unfairly discriminatory.

(b) Except to the extent necessary to meet the provisions of subdivision four of subsection (a) of this section, uniformity among insurers in any matter within the scope of this section is neither required nor prohibited.

Sec. 4. Rate Filings.—(a) Every insurer shall file with the commissioner every manual of classifications, rules
and rates, every rating plan and every modification of
any of the foregoing which it proposes to use. Every
such filing shall state the proposed effective date there-
of, and shall indicate the character and extent of the
coverage contemplated. When a filing is not accompa-
nied 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 may 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 informa-
tion furnished in support of a filing shall include (1) the
experience or judgment of the insurer or rating organiza-
tion making the filing, (2) its interpretation of any statis-
tical data it relies upon, (3) the experience of other in-
surers 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 effect-

(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 fil-
ings 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 or-
ganization.

(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 this and in
subsection (e) of this section, each filing shall be on file
for a waiting period of fifteen days before it become ef-
fective, which period may be extended by the commis-
sioner for one additional period not to exceed fifteen days
if he gives written notice within such waiting period to
the insurer or rating organization which made the filing
that he needs such additional time for the consideration
43° of such filing. Upon written application by such insurer
44 or rating organization, the commissioner may authorize
45 a filing which he has reviewed to become effective be-
46 fore the expiration of the waiting period or any extension
47 thereof. A filing shall be deemed to meet the require-
48 ments of this article unless disapproved by the commis-
49 sioner within the waiting period or any extension there-
50 of.
51
52 (e) Any special filing with respect to a surety or guar-
53 anty bond required by law or by court or executive order
54 or by order, rule or regulation of a public body, not cov-
55 ered by a previous filing, shall become effective when
56 filed and shall be deemed to meet the requirements of
57 this article until such time as the commissioner reviews
58 the filing and so long thereafter as the filing remains in
59 effect.
60
61 (f) Under such rules and regulations as he shall adopt
62 the commissioner may, by written order, suspend or
63 modify the requirement of filings as to any kind of in-
64 surance, subdivision or combination thereof, or as to
65 classes of risks, the rates for which cannot practicably
66 be filed before they are used. Such orders, rules and reg-
67 ulations shall be made known to insurers and rating or-
68 ganizations affected thereby. The commissioner may make
69 such examination as he may deem advisable to ascertain
70 whether any rates affected by such order meet the stand-
71 ards set forth in subdivision four of subsection (a) of
72 section three.
73
74 (g) Upon the written application of the insured, stat-
75 ing his reasons therefor, an insurer may use, subject to
76 such rules and regulations as the commissioner may adopt,
77 a rate in excess of that provided by any filing otherwise
78 applicable on any specific risk.
79
80 (h) Beginning ninety days after the effective date of
81 this article no insurer shall make or issue a contract or
82 policy except in accordance with filings which are in ef-
83 fect for said insurer as provided in this article or in ac-
84 cordance with sub-sections (f) or (g) of this section.

Sec. 5. Disapproval of Filings.—(a) If within the wait-
(a) If during the presumptive period or an extension thereof as provided in subsection (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 filing 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 special surety or guaranty filing subject to subsection (e) of section four has become effective, the commissioner finds that such 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 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 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 other-
wise 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 appli-
cant 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 arti-
cle, and stating when, within a reasonable period there-
after, 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 of classifications, rules, rating plan or
any modification of any of the foregoing which estab-
ishes standards for measuring variations in hazards or
expense provisions, or both, and which has been filed
pursuant to the requirements of section four of this arti-
cle shall be disapproved if the rates thereby produced
meet the requirements of this article.

Sec. 6. Alternative Filing Section.—(a) In lieu of the
filing and review procedure provided in sections four and
five, such filings, other than special surety or guaranty
bond filings referred to in subsection (e) of section four,
may be made under this section and the rates shall become
effective immediately upon filing or at such future time
as the insurer or rating organization making them may
specify and shall thereafter remain in effect unless and
until changed by the insurer or rating organization mak-
ing them, or adjusted by order of the commissioner as in
this section provided.
(b) Whenever the commissioner upon his own information, or upon complaint of any member of the public alleged to be aggrieved thereby, shall have reason to believe that any of the rates filed under this section are not in accordance with the provisions of this act, he shall have the power and authority to investigate to the extent he shall see fit the necessity for an adjournment of any or all of such rates.

(c) After such investigation, the commissioner shall, before ordering any appropriate adjustment thereof, hold a hearing upon not less than ten days' written notice specifying the matter to be considered at such hearing, to every insurer and rating organization which files such rates under inquiry, but no hearing shall be held if every insurer and rating organization affected shall advise the commissioner that they do not desire such hearing. If after such hearing, the commissioner determines that any or all of such rates are excessive, inadequate or unfairly discriminatory, as between individual risks or classes of risks of an insurer he shall order appropriate adjustment thereof. Pending such investigation and order of the commissioner, rates shall be deemed to have been made in accordance with the terms of this act. No order of adjustment shall affect any contract or policy made or issued prior to the effective date of his order unless (a) the adjustment to be effected is substantial and exceeds the cost to the company of making the adjustment; and (b) the order is made after the prescribed investigation and hearing and within sixty days after the filing of rates affected.

If in event of a rate adjustment requiring an increased rate, the policyholder does not accept such increase, cancellation shall be made on a pro rata basis. Each policy issued pursuant to filing under this section which may be subject to rate or premium adjustment, shall so provide in language to be approved by the commissioner.

(d) The commissioner after such sixty-day period may review any such rates in the manner and subject to the conditions provided in subsection (c) of section five.

(e) In determining the necessity for an adjustment of rates, the commissioner shall observe the provisions of
give consideration to the type of information which may be furnished in support of a filing as set forth in subsection (a) of section four.

Sec. 7. 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 subdivisions 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 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. Said license fee shall be in lieu of all other fees, licenses or taxes to which said rating organization may otherwise be subject. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, 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 agree-
ment 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 com-
missoner 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 in-
surance or subdivision thereof for which it is authorized
to act as a rating organization. Notice of proposed changes
in such rules and regulations shall be given to subscribers.
Each rating organization shall furnish its rating services
without discrimination to its members and subscribers.
The reasonableness of any rule or regulation in its ap-
plication to subscribers, or the refusal of any rating or-
ganization to admit an insurer as a subscriber, shall, at
the request of any subscriber 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 unreasonable in its
application to subscribers, he shall order that such rule
or regulation shall not be applicable to subscribers. 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 com-
missioner as if the application had been rejected. If the
commissioner finds that the insurer has been refused ad-
mittance to the rating organization as a subscriber with-
posits allowed or returned by insurers to their policy-
holders, members 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 ac-
tivity or practice is unfair or unreasonable or otherwise
inconsistent with the provisions of this article, he may
issue a written order specifying in what respect such ac-
tivity or practice is unfair or unreasonable or otherwise
inconsistent with the provisions of this article, and re-
quiring the discontinuance of such activity or practice.

Sec. 8. 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 in-
surer may make written application to the commissioner
for permission to file a uniform percentage decrease or
increase to be applied to the premiums produced by the
rating system so filed for a kind of insurance, or for a
class of insurance which is found by the commissioner to
be a proper rating unit for the application of such uniform
percentage decrease or increase, or for a subdivision of a
kind of insurance (1) comprised of a group of manual
classifications which is treated as a separate unit for rate
making purposes, or (2) for which separate expense pro-
visions are included in the filings of the rating organiza-
tion. Such application shall specify the basis for the modi-
fication and shall be accompanied by the data upon which
the applicant relies. A copy of the application and data
shall 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. The commissioner shall issue an order permitting the modification 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 modification is not justified or 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. 9. 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.

If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs in accordance with the right granted in subdivision two of subsection (a) of section three, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section three.
Sec. 10. 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. 11. 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 direc-
tion may be served, and (4) an agreement that the com-
missioner may examine such advisory organization in ac-
cordance 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 other-
wise 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 in-
consistent with the provisions of this article, and requir-
ing 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 involv-
ing such statistics or recommendations issued under sub-
section (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 discon-
tinuance of such violation.
Sec. 12. Joint Underwriting or Joint Reinsurance.—
(a) Every group, association or other organization of in-
surers which engages in joint underwriting or joint re-
insurance, 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 thirteen
and seventeen to twenty-one 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 in-
consistent with the provisions of this article, he may issue
a written order specifying in what respect such activity
or practice is unfair or unreasonable or otherwise incon-
sistent with the provisions of this article, and requiring
the discontinuance of such activity or practice.
Sec. 13. Examinations.—The commissioner shall, at least
once in five years, make or cause to be made an examina-
tion of each rating organization licensed in this state as
provided in section seven 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 eleven and of each group, association or other
organization referred to in section twelve. 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 such costs. The officer, manager,
agents and employees of such rating organization, ad-
visory organization, or group, association or other organi-
zation may be examined at any time under oath and shall
exhibit all books, records, accounts, documents, or agree-
ments governing its method of operation. The commis-
sioner 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 report for public inspection, the com-
missioner shall grant a hearing to the organization, group
or association examined. The report of any such examina-
tion, when filed for public inspection, shall be admissible
in evidence in any action or proceeding brought by the
commissioner against the organization, group or associa-
tion examined, or its officers or agents, and shall be prima
facie evidence of the facts stated therein. The commis-
sioner may withhold the report of any such examination
from public inspection for such time as he may deem
proper. In lieu of any such examination the commissioner
may accept the report of an examination made by the in-
surance supervisory official of another state, pursuant to
the laws of such state.

Sec. 14. Rate Administration.—(a) The commissioner
shall promulgate reasonable rules and statistical plans,
reasonably adapted to each of the rating systems 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 experience 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 comply with the standards set forth in section three. Such rules and plans may also provide for the recording and reporting of expense items which are specially applicable to this state and which are not susceptible of determination by a pro-rating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating system 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. Each insurer shall record and report its loss experience on a classification basis consistent with the rating system filed by it. Any insurer may report such experience direct to the commissioner or may satisfy its obligation to report such experience by becoming a member of, or a subscriber to, a licensed rating or qualified advisory organization which gathers, compiles and reports to the commissioner the experience required by this section and by authorizing the commissioner to accept such reports on its behalf. No insurer shall be required to report such experience to any licensed rating or qualified advisory organization of which it is not a member or subscriber. The experience of individual insurers thus reported to the commissioner shall not be revealed by him, except by court order, but the commissioner shall make a compilation of all such experience to the extent he may deem practicable and he shall, to the extent he may deem practicable, make a consolidation of all compilations filed with him and those made by him. All such compilations and consolidations shall be available to licensed insurers and licensed rating and qualified advisory organizations and shall also be open to public inspection, subject to reasonable rules promulgated by the commissioner.

(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 or rating systems.

(d) The commissioner may make reasonable rules and regulations necessary to effect the purposes of this article.

Sec. 15. 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 provided in section eighteen of this article.

Sec. 16. Assigned Risks.—Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

Sec. 17. Rebates Prohibited.—No broker, agent or solicitor shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of this article. No insurer or employee 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 insurance has been effected, any rebate, discount abatement, 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 in-
surance, nor any employee of such insured shall know-
ingly receive or accept, directly or indirectly, any such
rebate, discount, abatement, credit or reduction of pre-
mium, or any such special favor or advantage or valuable
consideration or inducement.

Nothing in this section shall be construed as prohibiting
the payment of commissions or other compensation to duly
licensed agents, brokers and solicitors, nor as prohibiting
any insurer from allowing or returning to its participating
policyholders, members or subscribers, dividends, savings
or unabsorbed premium deposits. As used in this section
the word “insurance” includes suretyship and the word
“policy” includes bond.

Sections eighteen, nineteen and twenty, inclusive, of
article two of this chapter shall not apply to any kind of
insurance subject to the provisions of this article.

Sec. 18. Penalties.—Any person or organization violat-
ing any provision of this article shall, upon conviction,
be subject to a penalty of not more than fifty dollars for
each such violation, but if such violation is found to be
willful, the penalty may be 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 lim-
ited 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 pre-
scribed for an appeal therefrom has expired or if an ap-
peal has been taken, until such order has been affirmed.
The commissioner may determine when a suspension of
license shall become effective and it shall remain in ef-
flect for the period fixed by him, unless he modifies or
rescinds such suspension, or until the order upon which
such suspension is based is modified, rescinded or reversed.

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. 19. 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 to the circuit court of Kanawha county, or to 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 com-
missioner. 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 appeal in the supreme court of appeals. Pending such review the order of the commissioner shall be in full force and effect until final determination, unless the court, or the judge thereof sitting in vacation, before whom such review is pending, shall enter an order staying the effect of the order or decision of the commissioner until final determination by the court. The court may, in disposing of the issue before it, modify, affirm or reverse the decision or order of the commissioner in whole or in part.

Sec. 20. Laws Repealed.—All other laws or parts of laws inconsistent with the provisions of this article are hereby repealed.

Sec. 21. Constitutionality.—If any section, subsection, subdivision, paragraph, sentence or clause of this article is held invalid or unconstitutional, such decision shall not affect the remaining portions of this article.

CHAPTER 77
(Senate Bill No. 166—By Mr. Love)

AN ACT to amend and reenact sections one and eleven, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to fees of justices in civil and criminal cases.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 17. Fees, Fines and Costs.
Section 1. Fees of justices in civil cases.
11. Fees of justices in criminal cases.
Be it enacted by the Legislature of West Virginia:

That sections one and eleven, 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 Justices 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 cases, indexing and filing papers, receiving confessions 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 $3.50

(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 cases (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 civil order of arrest or order of commitment, civil cases .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 each continuance .50

(14) For settling and allowing interrogatories .50

(15) For entering agreement for arbitration .50
<table>
<thead>
<tr>
<th>Clause</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>36 (16)</td>
<td>For summons of arbitrators</td>
<td>$.30</td>
</tr>
<tr>
<td>37 (17)</td>
<td>For each bond filed in a case, appeal bond, stay-of-execution bond, bail bond, civil order of arrest, detinue bond, except bond in attachment case and docketing same</td>
<td>$1.00</td>
</tr>
<tr>
<td>41 (18)</td>
<td>For ordering a jury, including the drawing of same</td>
<td>$.50</td>
</tr>
<tr>
<td>43 (19)</td>
<td>For abstract of judgment for docketing in the office of the clerk of the county court</td>
<td>$.50</td>
</tr>
<tr>
<td>45 (20)</td>
<td>For issuing execution and entering return thereof on docket</td>
<td>$.50</td>
</tr>
<tr>
<td>47 (21)</td>
<td>For entering stay of execution</td>
<td>$.25</td>
</tr>
<tr>
<td>48 (22)</td>
<td>For trying right of property levied on or attached</td>
<td>$1.50</td>
</tr>
<tr>
<td>50 (23)</td>
<td>For transcript from docket</td>
<td>$1.00</td>
</tr>
<tr>
<td>51 (24)</td>
<td>For transmitting or delivering papers to the clerk of the circuit court in case of appeal</td>
<td>$.50</td>
</tr>
<tr>
<td>53 (25)</td>
<td>For taking and certifying acknowledgment of deed or other instrument of writing</td>
<td>$.50</td>
</tr>
<tr>
<td>55 (26)</td>
<td>For taking depositions of witnesses if done in an hour or less</td>
<td>$1.00</td>
</tr>
<tr>
<td>57 (27)</td>
<td>If not completed in an hour, for additional time at the rate, per hour of</td>
<td>$1.00</td>
</tr>
<tr>
<td>59 (28)</td>
<td>For appointing a guardian for the suit of an infant plaintiff or defendant</td>
<td>$.50</td>
</tr>
<tr>
<td>61 (29)</td>
<td>For taking an inquest on a dead body, to be audited and paid from the treasury of the county</td>
<td>$5.00</td>
</tr>
<tr>
<td>63 (30)</td>
<td>For each distress warrant issued, docketing the case and indexing and filing papers</td>
<td>$1.00</td>
</tr>
<tr>
<td>65 (31)</td>
<td>For each suggestee execution issued, docketing and indexing same</td>
<td>$1.50</td>
</tr>
<tr>
<td>67 (32)</td>
<td>For mailing each suggestee execution by registered mail and return receipt requested</td>
<td>$.35</td>
</tr>
<tr>
<td>69 (33)</td>
<td>For each renewal of suggestee execution issued docketing and indexing same</td>
<td>$1.50</td>
</tr>
<tr>
<td>71 (34)</td>
<td>For issuing each temporary release, modifying order or permanent release</td>
<td>$.50</td>
</tr>
<tr>
<td>73 (35)</td>
<td>Order of appraisement, appointing appraisers, swearing of the same and docketing same, to be paid by plaintiff</td>
<td>$1.00</td>
</tr>
<tr>
<td>76 (36)</td>
<td>Provided, however, That in an action brought</td>
<td></td>
</tr>
</tbody>
</table>
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 for covering all
costs to be charged by the justice in each case
shall not exceed $5.50, and if the claim is con-
tested, the maximum total fee covering all costs
to be charged by the justice shall not exceed...... 7.00

Sec. 11. Fees of Justices in Criminal Cases.—(1) Every
justice shall be entitled to a fee of three dollars and fifty
cents 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 for arrest, trial examination, issuing sub-
poenas and copies thereof, warrant summoning and swear-
ing a jury when required, swearing and certifying at-
tendance 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 in
which he may be by law required to certify such tran-
script, and two dollars for bond recognizance, to be paid by
defendant. And no other fees shall be taxed or charged by
any justice in such cases and proceedings: Provided, how-
ever, That under the provisions of this section the justice
shall be entitled to such fees theretofore earned, as were
authorized by law at the time such fees 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 the Legislature, regu-
lar session, one thousand nine hundred thirty-five.
(2) For issuing sheep warrant, appointing and swear-
ing appraisers and docketing same .......................... 1.00
(3) Bond or recognizance ............................................. 2.00
CHAPTER 78

(Senate Bill No. 126—By Mr. Wylie)

AN ACT to amend and reenact chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one and two, article one; by amending and reenacting sections one and two, article two; and by repealing section seven of said article two; by amending the caption to article three and by amending and reenacting sections one, two, three, four, five, six, seven, eight, nine, ten, twelve and thirteen of said article three; by amending and reenacting sections one, three, three-c, five, six, eight and nine, and by repealing sections three-a and three-b of article four; by amending the caption of article five; by amending the caption of article six, and by amending and reenacting sections one and two of said article six; by amending and reenacting section one, article seven; by amending and reenacting sections one, three, and five, of article nine; by amending and reenacting section one, article ten; all relating to mentally diseased persons.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

CHAPTER 27. MENTALLY DISEASED PERSONS.

Article
1. Definitions.
2. State Hospitals.
3. Determination of Mental Disease; Commitment.
4. Patients in Hospitals; Restoration to Sanity and Discharge.
7. Private Hospitals.
8. West Virginia Training School.
9. Committees; Disposition of Property.
10. Offenses.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted by amending and reenacting sections one and two, article one; by amending and reenacting sections one and two, article two; and by repealing section seven of said article two;
by amending the caption to article three and by amending and reenacting sections one, two, three, four, five, six, seven, eight, nine, ten, twelve and thirteen of said article three; by amending and reenacting sections three, three-c, five, six, eight and nine, and by repealing sections three-a and three-b of article four; by amending the caption of article five; by amending the caption of article six, and by amending and reenacting sections one and two of said article six; by amending and reenacting section one, article seven; by amending and reenacting sections one, two, three and five, article nine; by amending and reenacting section one, article ten, all to read as follows:

**Article 1. Definitions.**

Section 1. **What the Words “Mentally Diseased” to Include.**

- The words “mentally diseased”, whenever they occur in this code, shall be construed as referring to any person who is mentally ill, feeble-minded, or epileptic.
- Whenever the terms “lunatic”, “idiot”, “imbecile”, “mental defective”, “insane”, “moron”, “senile dementia”, “non compos”, “deranged”, “dotards”, “mentally ill”, or words of like import are used throughout this code, they shall be interpreted to mean persons mentally diseased.

Section 2. **Resident of State and County.**

For the purpose of this chapter no person shall be considered a resident of this state unless he is a citizen of the United States and has been a bona fide resident of this state for at least one year, and was not mentally diseased when he came into this state; and no person shall be considered a resident of a county who is not a resident of the state, as above defined, and who has not been a resident of the county for at least sixty days, and was not mentally diseased when he came to the county.

**Article 2. State Hospitals.**

Section 1. **Locations; Continuation; Management.**

The state hospitals for the mentally diseased, heretofore es-
established at Weston, Spencer, Huntington, and Lakin
shall be continued and known respectively, as the Weston
state hospital, Spencer state hospital, Huntington state
hospital, and Lakin state hospital, and there is hereby es-
established another and new hospital, for the mentally dis-
eased at Barboursville, Cabell county, which shall be
known as the Barboursville state hospital. Said hospitals
shall be managed, directed and controlled as prescribed
in article one, chapter twenty-five of the code, and further
as provided in this chapter.

Sec. 2. Segregation of Races.—The Weston, Spencer,
Huntington, and Barboursville state hospitals shall be
used for the care and treatment of white persons, and the
Lakin state hospital shall be used for the care and treat-
ment of colored persons.

Article 3. Determination of Mental Disease; Commitment.

Section 1. County mental hygiene commission.
2. Meetings.
3. How proceedings originated; complaint; warrant.
4. Guardian ad litem for suspected person.
5. Witnesses; physicians; evidence to be reduced to writing.
6. Hearing; disposition of mentally diseased person.
7. Disposition of mentally diseased person who is nonresident of
   county; expenses.
8. Commission to inquire into residence.
9. Arrangements preparatory to transfer of mentally diseased per-
   person to hospital; expenses of commitment and transfer.
10. Compensation of physicians, witnesses and others.
12. When officer not to be compensated for transfer to hospital.
13. How and when circuit court to inquire into a person's sanity.

Section 1. County Mental Hygiene Commission.—There
shall be in each county a mental hygiene commission of
three members, to be composed of any member of the
county court, the prosecuting attorney and/or an assistant
prosecuting attorney so designated by the prosecuting
attorney and approved by the county court, and the clerk
of the county court and/or a deputy clerk so designated
by the clerk of the county court and approved by the
county court, who shall serve as such without compensa-
tion, except for traveling or other necessary expenses in-
curred in the discharge of their duties as members of the
commission, which expenses shall be audited by the
county court and paid out of the county treasury. A mem-
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14 member of the county court shall be the chairman of the com-
15 mission. In the absence of a county court member, the
16 prosecuting attorney and/or his designated assistant as
17 herein provided, shall act as such chairman. The clerk of
18 the county court and/or his designated deputy shall be the
19 clerk of the commission and shall keep in a proper book
20 provided for the purpose a full and careful record of all
21 the acts, orders and resolutions of the commission. Any
22 two members from different offices represented on the
23 commission shall be a quorum thereof. The county court
24 of each county shall at its first term of court of each year
25 enter an order designating the persons eligible to sit as
26 members of the county mental hygiene commission.

Sec. 2 Meetings.—All meetings of the commission shall
2 be held at the county seat, unless it shall be thought best
3 by the commission to meet at some other place, as in the
4 case of a mentally diseased person whose condition makes
5 it advisable to meet at or near his residence.

Sec. 3. How Proceedings Originated; Complaint; War-
2 rant.—If any resident of the county reasonably suspect
3 any person therein to be mentally diseased, he may make
4 complaint under oath to the clerk of the county court,
5 giving such information and stating such facts therein as
6 may be required, and deliver the same to the clerk of the
7 county court, whose duty it shall be to issue a warrant
8 ordering the person suspected and named in such com-
9 plaint to be brought before the commission at a time and
10 place named therein that his mental condition may be in-
11 quired into. If the clerk of the county court does not deem
12 such suspicion to be reasonable, he may require such
13 complainant to furnish the certificate of a reputable phy-
14 sician showing the suspected person's condition, before
15 issuing a warrant. Any member of the commission with-
16 out such complaint may have such warrant issued for any
17 person found in his county, whom he shall suspect to be
18 mentally diseased. All such warrants shall be signed by
19 the clerk of the county court and have impressed thereon
20 the seal thereof; and may be addressed to the sheriff of
21 the county or to any constable of any district thereof, or
22 to a special constable appointed for the purpose and named
MENTALLY DISEASED PERSONS

Sec. 3.  Whenever a person apparently mentally diseased 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.

Sec. 4.  Guardian ad Litem for Suspected Person.—Before proceeding with the hearing of the matter, the commission shall appoint a guardian ad litem, who shall be a competent attorney, for such suspected person, and such guardian shall be present at the hearing and manage the case on behalf of the person suspected. Such attorney shall be paid by the county court. Such suspected person and his counsel shall have the right to cross examine any witnesses.

Sec. 5.  Witnesses; Physicians; Evidence to be Reduced to Writing.—Among the witnesses there shall be included two reputable physicians, duly authorized to practice medicine in this state, who shall separately or together, make a physical and mental examination of the suspected person, and each physician shall make out a certificate of the result of such examination in the form required by the board of control, which certificate shall be signed and sworn to by each physician and shall be considered as evidence by the commission. Not more than one physician of any firm or association of physicians practicing medicine together, shall sign any such certificate respecting the mental or body condition of any person suspected of being mentally diseased.

Sec. 6.  Hearing; Disposition of Mentally Diseased Person.—If the commission finds as a result of the hearing that the person suspected is a mentally diseased person and should be confined in a hospital, and that he is not a resident of another county of this state, it shall order him to be committed to the nearest state hospital unless some
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relative or friend of such person will agree to take care of
him, in which case the commission may deliver him to
such person, and take from such relative or friend a bond
in the penalty of at least five hundred dollars, with suf-
cient security, to be approved by the commission, payable
to the state of West Virginia, with condition to restrain
and take proper care of such mentally diseased person
until the cause of confinement shall cease, or until he is
delivered to the commission to be proceeded with accord-
ing to law; but if the person found to be a mentally dis-
eased person is not dangerous to himself or to the lives or
property of others, or is found harmless and incurable, he
may be delivered to any relative or friend who will agree
to take proper care of him, without such bond, if in the
judgment of the commission in any case the same may be
proper.

Sec. 7. Disposition of Mentally Diseased Person Who
is Nonresident of County; Expenses.—If a person found to
be mentally diseased by the commission is a resident of
another county of this state, a transcript of the evidence
adduced at the hearing of such person, properly certified
by the clerk of the county court, shall be forthwith for-
warded to the clerk of the county court of the county of
which such person is a resident, who shall immediately
present such transcript to the mental hygiene commission
of said county. Such commission shall give full faith and
credit to the evidence contained in such transcript, and, if
satisfied that such person is mentally diseased, shall order
the person to be committed to one of the state hospitals
for the mentally diseased, as though the person had been
brought before it in the first instance. This order shall
be transmitted forthwith to the county clerk of the county
in which the examination was held, who shall execute said
order promptly. All expenses incurred in this proceeding,
as well as for the hospitalization of the mentally diseased
person, shall be borne by the county of which he is a
resident.

Sec. 8. Commission to Inquire into Residence.—In the
examination of a person before them, suspected of being
mentally diseased, the county mental hygiene commiss-
sion, if it appear that he is not a resident of this state, shall make diligent inquiry to ascertain his residence, and if it be ascertained that he is a resident of another state, the clerk of the mental hygiene commission shall immediately inform the board of control, which shall thereupon instruct said clerk what disposition is to be made of the suspected person.

Sec. 9. Arrangements Preparatory to Transfer of Mentally Diseased Person to Hospital; Expenses of Commitment and Transfer.—When a person has been committed to a hospital as hereinbefore provided, the clerk of the commission shall immediately communicate with the superintendent of the proper hospital, and forward to him the commitment papers. In the meantime the commission may deliver such mentally diseased person into the custody of the sheriff for safe keeping until he is taken to the hospital, or may provide for his safe keeping for such time by any relative or friend who may agree to do so, upon such terms as may be agreed upon. No such mentally diseased person shall be confined in any jail, lockup, or other similar place, unless by reason of his violent or dangerous condition the same shall be necessary; and it shall be the duty of the commission to have all such persons admitted to a hospital where they can receive proper treatment, as speedily as possible. In any case the clerk of the county court may communicate with the superintendent of the hospital by telegraph or telephone. All expenses incurred in the arrest, hearing, and transportation of any mentally diseased person to a hospital, including any such telegraphing or telephoning, shall be certified to the county court by the clerk thereof, and shall be paid out of the county treasury.

Sec. 10. Compensation of Physicians, Witnesses and Others.—The county court of any county may contract with two or more competent physicians respecting the compensation to be paid to them for their services in examining mentally diseased persons and other persons brought before the mental hygiene commission of the county, the county court, or the circuit court, or con-
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8 fined in jail. The compensation of physicians, of all wit-9 nesses, and of all other persons and officers whose com-10 pensation is not fixed in this chapter or by any other 11 law, employed in examination of such persons, or for 12 their care and maintenance, or for other services in connection therewith, unless the same shall have been agreed upon before or at the time such service was performed, or is fixed by law, shall be such as may be prescribed by the county court of the county, and shall be paid out of the county treasury.

Sec. 12. When Officer Not to Be Compensated for Transfer to Hospital.—No officer shall be allowed anything for carrying a mentally diseased person or other person to or from a hospital, whether for himself, his guard, or the mentally diseased person, unless he shall have previously ascertained that there is room therein for such mentally diseased person.

Sec. 13. How and When Circuit Court to Inquire into a Person’s Sanity.—If a person residing in this state be suspected to be mentally diseased but has not been found to be a mentally diseased person by the county mental hygiene commission, the circuit court of the county of which such person is an inhabitant shall, upon the application of any person interested, and after five days’ notice to the person suspected, proceed to examine into his state of mind, and if satisfied that he is a mentally diseased person, shall so find. If a person residing out of this state, but having property herein, be suspected to be a mentally diseased person, the circuit court of the county wherein the property or a greater part of it is shall, upon like application and being satisfied that he is a mentally diseased person, so find. Such finding, in either case, shall be authority for the appointment of a committee for such person by the county court.

Article 4. Patients In Hospitals; Restoration To Sanity And Discharge.

Section
1. Admission to hospital of committed persons.
3. Voluntary admission.
3-c. Report of admissions; registration by the board of control.
5. Commitment and admission of criminal mentally diseased person.
6. Disposition of mentally diseased person who is nonresident of state.
8. Return of criminal mentally diseased person upon restoration.

Section 1. Admission to Hospital of Committed Persons.

The superintendent of the hospital to whom application is made as hereinbefore provided, shall, on receipt of such application, carefully consider the same, and if he be of the opinion that the person named is a proper one to be admitted to his institution, and there is room for him therein, he shall, without delay, cause such person to be brought to his hospital by one of the attendants thereof, the actual expenses whereof shall be paid out of the proper fund of the hospital, and repaid to the state by the county as hereinafter provided. If there be no room in the hospital to which the application is made, the superintendent thereof shall immediately communicate the fact to the board of control, which he may do when deemed necessary by telegraph or telephone, and transmit the commitment papers to the board of control, whose duty it shall be to ascertain whether there is room in any one of the other hospitals, and if there is, to cause such person to be admitted thereto, and the superintendent thereof to send an attendant for such person: Provided, That any reputable and trustworthy relative or friend of such person may be allowed by the county mental hygiene commission to deliver him to the hospital, if such relative or friend will do so without expense to the county or state.

Sec. 3. Voluntary Admission.—Any person, a resident of this state, who desires the benefit of institutional treatment, may be admitted to one of the state mental hospitals on his own written application, or upon the application of a reputable physician, providing such person is willing to enter the hospital. Such admissions shall be subject to the rules and regulations of the board of control. Such 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 the receipt of this notice, grant the request unless upon examination,
as provided in section two of this article, the examining board has determined that the patient is mentally diseased and requires further hospitalization. If such determination is made the examining board shall forthwith forward to the clerk of the county court of the county in which such a person is a resident, a detailed report of their examination, on forms provided by the board of control, which report shall immediately be presented to the mental hygiene commission of said county. Such commission shall give full faith and credit to this report, and if satisfied that such person is mentally diseased, shall issue an order legally committing the mentally diseased person to the hospital making the report, as though the person had been brought before it. All expenses incurred in this proceeding, as well as the hospitalization of the mentally diseased person, shall be borne by the county of which he is a resident.

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 disease. 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. 5. Commitment and Admission of Criminal Mentally Diseased Person.—If any person charged with or convicted of crime be found, in the court before which he is so charged or was convicted, to be mentally diseased, and if such court shall order him to be confined in one of the state hospitals, he shall be received and confined in it if there be room therein for him. The sheriff or other officer of the court by which the order is made
Sec. 6. Disposition of Mentally Diseased Person Who Is Nonresident of State.—When a person who is a nonresident of the state is committed to, or detained as an inmate of, a state hospital, the superintendent thereof shall immediately report the fact to the board of control. The board shall take proper steps to cause such person to be deported, if an alien; or, if otherwise a nonresident of this state, to be taken to the state, territory or place of his residence and delivered to the proper authorities thereof.

Sec. 8. Return of Criminal Mentally Diseased Person Upon Restoration.—When any person confined in a state hospital charged with crime and subject to be tried therefor, or convicted of crime and subject to be punished therefor, shall be restored to sanity, the superintendent shall give notice thereof to the clerk of the court by whose order he was confined, and deliver him to the proper officer upon the order of the court.

Sec. 9. Discharge by Court Proceedings of Persons Unlawfully Detained.—Any person who has been found mentally diseased by a county mental hygiene commission or any other board or tribunal other than a circuit court, and any person who is confined in any hospital or other place of confinement or otherwise restrained of his liberty in violation of law, or a patient who has been restored to sanity and to whom the superintendent of the hospital refuses to give a certificate of restoration and discharge, may present his petition, or any relative or friend may present a petition in his behalf, to the circuit court of the county in which the hospital is located in case of a patient denied the certificate of restoration, and in other cases to the circuit court of the county in which the person is confined or is in custody, stating facts. The courts shall treat such petition as an application for a writ of habeas corpus, so far as applicable.
and necessary, and cause such process to issue as the court may deem proper, and fix a time for the hearing of the case, which may be heard by the court either with or without a jury, as the court may order; and if the person is found sane, or it is found that he is held in custody in violation of law, he shall be discharged. In cases of patients who have been denied certificates of restoration and discharge by the superintendent of a hospital, or in which it is alleged that a patient is held in custody illegally in any state hospital, the superintendent shall have at least five days' notice of the time and place of the trial in the circuit court. In all such cases the prosecuting attorney shall represent the sheriff or other county officer or the commission who shall be a defendant in such proceedings; and the attorney general shall represent the superintendent of any hospital who is a defendant. In case the decision shall be against the applicant, he or his bondsman (if any), or the person signing the petition, shall pay the costs of the proceedings. In any case in which a court may find a person sane upon an inquest or trial respecting his sanity, he shall be discharged and be entitled to a certified copy of the order of the court made in the case. Nothing in this section shall be construed as applying to patients charged with or convicted of crime.


Section 1. Report to county court; provision for maintenance; when not to be paid to jailer.

Section 1. Report to County Court; Provision for Maintenance; When Not to be Paid to Jailer.—When any person is confined in any jail as a mentally diseased person, the jailer shall certify the fact to the county court of the county at the next ensuing term, and the court shall then make such provision for the care and maintenance of such person, while in jail as it may deem proper: Provided, however, That the allowance to the jailer for such care and maintenance shall not exceed one dollar per day, except in special and extraordinary cases when the court...
may allow a larger sum. A reasonable allowance may be
made for clothing for such person. No such allowances
shall be ordered or paid, unless it appear in the certificate
that the jailer proved to the court that, immediately after
the commitment of such person, and at least once in each
ten days thereafter, application was made to a state hos-
pital for admission, and that such application was refused
for want of room, or that applications were not continued
because the admission of such person had been refused
for some other cause than want of room, and unless it
further appears in such certificate that the jailer made
report in due time to the county court of the county, as
provided, in the first part of this section.

Sec. 2. How Discharge of Such Mentally Diseased Per-
son Obtained.—If any reputable person present to the
clerk of the county court of a county wherein a person is
confined as a mentally diseased person, other than one
charged with or convicted of crime, or other than one
confined in a state hospital, or a duly licensed private hos-
pital, an application in writing for the discharge of such
mentally diseased person on the ground that he has been
restored to sanity, the mental hygiene commission for the
county shall consider the same and may proceed to make
an inquest upon such mentally diseased person as is pro-
vided in article three of this chapter. If the commission
find that such person has been restored to sanity, they
shall set him at liberty, if they have authority to do so;
and if they have not such authority, they shall give a
certificate of their finding to the person making the ap-
plication, who may present it to the proper court.

Article 7. Private Hospitals.

Section 1. Permit from board of control; regulations.

Section 1. Permit from Board of Control; Regulations.
—No private hospital for the care and treatment of men-
tally diseased persons for compensation shall be estab-
lished unless a permit therefor shall be first obtained from
the board of control. The application for such permit
shall be accompanied by the plan of the premises to be
occupied, and with such other data and facts as the board
may require. The board of control may make such terms and regulations in regard to the conduct of such hospital as it may think proper and necessary. The board of control, or any member thereof, or any person authorized by the board to do so, shall have full authority to investigate and inspect such private hospital; and the board of control may revoke the permit of any such hospital for good cause, after reasonable notice to the superintendent or other person in charge thereof.

Article 8. West Virginia Training School.

Section 1. Management; Superintendent.—For the treatment and training of mentally diseased persons there shall be a state institution to be known as the “West Virginia Training School.” It shall belong to that class of institutions mentioned in section three, article one, chapter twenty-five of this code, and shall be managed and controlled as provided in said chapter, all the provisions whereof shall be applicable to said school except as in this article provided. The chief executive officer thereof shall be a superintendent, who shall be a legally qualified physician, scientifically trained in mental medicine and of not less than five years’ experience in the treatment and care of mentally diseased persons, and who shall be appointed by the governor with the advice and consent of the senate.

Sec. 3. Persons Who May Be Admitted.—There shall be admitted to said school any person mentally diseased from birth or from an early age, so pronounced that he or she is unable to care for himself or herself and manage his or her affairs, with ordinary prudence, and who, because of such mental disease, is a menace to the happiness and welfare of himself or herself or of others in the community, and requires care, training or control for the protection of himself or herself or of others, and yet who is not mentally ill. This type of person is classed as feebleminded, including idiots, imbeciles or morons. Should the school at any time not be able to accommodate all persons of such class offered for admission, preference in ad-
mission shall be given to children between the ages of seven and fourteen years, inclusive, of the moron type who are capable of being trained and of attending to their own ordinary physical needs. No person suffering from tuberculosis or leprosy shall be admitted, nor shall any deaf or blind person be admitted.

Article 9. Committees; Disposition of Property.

Section
1. To be appointed by county court.
2. Bond; refusal to act or failure to qualify; appointment of another; committal to sheriff.
3. Appraisement of estate.
5. Mortgage, lease or sale of realty.

Section 1. To Be Appointed by County Court.—When a person is found to be mentally diseased by any court or by the county mental hygiene commission, or is committed to a state hospital by the county court, the county court shall appoint a committee for him.

Sec. 2. Bond; Refusal to Act or Failure to Qualify; Appointment of Another; Committal to Sheriff.—The county court, when making the appointment of such committee, shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for any (and) pay over to the person entitled thereto all property and moneys which may come into his hands by virtue of such appointment, and with such other conditions as the court may require. If any person so appointed as committee refuse the trust or shall fail for ten days succeeding his appointment to give bond as aforesaid, the court, on the motion of any party interested, or at its own instance, may appoint some other person as committee, taking from him bond as above provided, or may commit the estate of such mentally diseased person to the sheriff of the county, who shall act as such committee without giving any bond as such, and he and the sureties on his official bond shall be liable for the faithful performance of the trust.

Sec. 3. Appraisement of Estate.—The county court, whenever any committee is appointed for a mentally dis-
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3 eased person, shall appoint appraisers and cause to be
4 made, returned and recorded an appraisement of the
5 property, both real and personal, of any such person in
6 the same manner, to the same extent, within the same
7 time, and subject to the same regulations and conditions
8 as required by law for the estate of a deceased person.

Sec. 5. Mortgage, Lease or Sale of Realty.—If the per-
2 sonal estate of such mentally diseased person be insuf-
3 ficient for the discharge of his debts, or if such estate or
4 the residue thereof after payment of the debts, and the
5 rents and profits of his real estate, be insufficient for his
6 maintenance and that of his family, if any, the commit-
7 tee of such mentally diseased person may proceed, as pro-
8 vided in article one, chapter thirty-seven, of this code, to
9 obtain authority to mortgage, lease or sell so much of the
10 real estate of such mentally diseased person as may be
11 necessary for the purposes aforesaid, or any of them; set-
12 ting forth in the bill or petition the particulars and the
13 amount of the estate, real and personal, the application
14 which may have been made of any personal estate, and
15 an account of the debts and demands existing against the
16 estate.

Article 10. Offenses.

Section 1. Malicious making of medical certificate or complaint as to sanity.

Section 1. Malicious Making of Medical Certificate or
2 Complaint as to Sanity.—Any physician who shall sign
3 a certificate respecting the sanity of any person without
4 having made the examination as provided for by this
5 chapter, or shall make any statement in any such certifi-
6 cate maliciously for the purpose of having such person
7 declared mentally diseased, and any person who shall
8 maliciously make application to any mental hygiene com-
9 mission or other tribunal for the purpose of having an-
10 other person declared mentally diseased, shall be fined
11 not exceeding five hundred dollars, or imprisoned not ex-
12 ceeding one year, or both fined and imprisoned at the dis-
13 cretion of the court.
CHAPTER 79

(Com. Sub. for Senate Bill No. 110—Originating in the Senate Committee on Insurance)

AN ACT to repeal sections seventeen to twenty-two, inclusive, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four of such article; and to amend such article by adding thereto five new sections, to be designated sections four-a, four-b, four-c, four-d and four-e, all relating to the office of the state fire marshal and his powers and duties concerning fire prevention, the making of rules, orders and regulations with respect thereto, and the enforcement thereof.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Article 3. State Fire Marshal; Protection Against Fire.

Section

4. Salary of fire marshal; employment of assistants and clerks; expenses.
4-a. Promulgation of rules and regulations; publication and notice thereof.
4-b. Orders of fire marshal; enforcement thereof; hearings, notice; review.
4-c. Enforcement in circuit court of fire marshal's orders; prosecuting attorney to represent fire marshal.
4-d. Certain municipalities exempt.
4-e. Separability; repeal.

Be it enacted by the Legislature of West Virginia:

That sections seventeen to twenty-two, inclusive, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section four of such article be amended and reenacted; and that such article be amended by adding thereto five new sections, to be designated sections four-a, four-b, four-c, four-d and four-e, to read as follows:

Section 4. Salary of Fire Marshal; Employment of Assistants and Clerks; Expenses.—The state fire marshal shall receive such salary as may be fixed by the insurance commissioner and may employ a deputy fire marshal and such personnel as may be necessary for the orderly en-
forcement of the provisions of this article and may incur
such expenses as may be necessary in the performance of
the duties of his office, including necessary traveling ex-
penses, not to exceed such sums as may be paid into the
state treasury in the manner hereinafter provided, or by
appropriation or contribution.

Sec. 4-a. Promulgation of Rules and Regulations; Pub-
lication and Notice Thereof.—The state fire marshal may
adopt and promulgate such rules, orders and regulations
as may be deemed necessary as safety precautions to guard
against the loss of life and property by fire in connection
with any of the following:
(1). The storage, transportation and use of combusti-
bles, explosives, flammable liquids and liquefied petrole-
um gases.
(2). The installation of electrical wiring, equipment
and apparatus.
(3). The construction, maintenance and regulation of
fire escapes.
(4). Construction and maintenance of ingresses, egres-
ses, exits and fire escapes in asylums, hospitals, multiple
residence properties, churches, schools, halls, theatres,
night clubs, and all other public places where persons
live or congregate from time to time for any purpose, in
order to prevent fire and loss of life by fire in said build-
ings.
(5). Instructing teachers of public and private schools
and educational institutions on conducting at least two
fire drills each month and keeping all doors and exits un-
locked and unfastened during school hours.
(6). Regulating exits and egresses to school buildings,
hotels, theatres and all other public buildings, except
churches heretofore built, and mercantile establishments
and other premises open to the general public and to
which the general public has access.
(7). Require by proper order the demolition or con-
demnation, repair or removal, of property which for want
of repairs, or by reason of age, or dilapidated condition,
or for any other cause is especially liable to fire or which
may be so situated or constructed so as to endanger other
buildings, property or lives.
(8). To issue regulations or orders requiring that any building or structure in this state of two or more stories in height operated, used or occupied as a hotel, apartment house or office building, is to be provided with one or more approved, suitable and substantial metallic fire escapes reaching from the top of the first story to the cornice and placed on the outside of the building, and, to require metallic balconies substantially attached to the building and to the fire escape at every story above the first in such number, size, capacity, design and locations as may be necessary to furnish reasonable means of escape to all persons in the building in case of fire.

(9). To subject to fire inspection as often as may be deemed necessary any building as described in paragraph eight of this section.

(10). To order and require the installation of adequate fire escapes or exits, or both, on any other building or structure, except private single family dwellings, which by reason of its construction, use, situation or occupancy is liable to cause loss of life in the event of destruction by fire.

(11). Prescribe protection, safe guards, or other means best adapted to render any public building inherently safe from the hazards of fire or the loss of life by fire as required by law, ordinance, or lawful orders.

Every general rule or regulation promulgated under authority of this section shall be given public notice by posting copies thereof in public places having facilities for the posting of notice and all other reasonable means shall be employed in disseminating and distributing copies of any such ruling to the owners of properties effected, including newspaper publication, radio announcement, or by advertisement.

Sec. 4-b. Orders of Fire Marshal; Enforcement Thereof; Hearings, Notice; Review.—Whenever the fire marshal finds, upon investigation, that the owner of any property, or occupant of any structure or building has not complied with the rules and regulations promulgated in the manner provided by section four-a of this article or any statute or other provision of law as provided in this chapter re-
lating to fire prevention, he shall order, after due notice and hearing, that improvement or changes be made and such equipment be provided as will comply with said regulations or provision of law relating to fire prevention. The fire marshal shall fix the date upon which the said hearing shall be held in his office, and shall specify in the notice, by registered mail, the alleged violations of the regulations or provisions of the statute relating to fire prevention. Within a reasonable time after such hearing, the fire marshal shall enter his order in the premises and shall furnish such owner or occupant with certified copies of his order stating therein when his order shall take effect or be complied with.

The action of the fire marshal, as set forth in his order hereinabove mentioned, shall be subject to review by the circuit court of the county within which such property is located. Petition for such review shall be filed by any person aggrieved by such order within a period of thirty days after the effective date of such order. The fire marshal shall forthwith file a copy of all records pertaining to such matter with the circuit court. An application to the supreme court of appeals of West Virginia for a writ of error from any final order of the circuit court in any such matter shall be made within thirty days from and after entry of such final order.

Sec. 4-c. Enforcement in Circuit Court of Fire Marshal’s Orders; Prosecuting Attorney to Represent Fire Marshal.—When the fire marshal has issued an order in the manner provided in section four-a of this article, and the same has not been complied with within the time specified in said order, he shall have authority to proceed by proper petition in the circuit court of the county wherein the property is located for the purpose of compelling compliance with his order or the closing of the property in question, and the court shall have the authority to hear and decide such questions and grant injunctions or other relief requested upon the evidence produced at a hearing before the court. The prosecuting attorney of the county in which the property is located shall represent the fire marshal in any such proceedings.
Sec. 4-d. Certain Municipalities Exempt.—The powers herein granted in sections four-a, four-b and four-c, shall not be exercised within any municipality which has adopted, or which shall hereafter upon the request of the fire marshal adopt, ordinances by which the fire chief or other appropriate municipal officer is given substantially the same powers contained in said sections four-a, four-b and four-c hereof.

Sec. 4-e. Separability; Repeal.—If any provision of this act, or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

CHAPTER 80

(House Bill No. 262—By Mr. Cline)

AN ACT to amend and reenact section three, article five-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to the receipts and expenditures of monies received by the state athletic commission.

[Passed March 4, 1949: In effect ninety days from passage. Approved by Governor.]

Article 5-a. State Athletic Commission.

Section 3. Receipts and expenditures of moneys received by commission.

Be it enacted by the Legislature of West Virginia:

That section three, article five-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be and the same is amended and reenacted so as to read as follows:

Section 3. Receipts and Expenditures of Moneys Received by Commission.—The commission shall retain out
3 of all money received by it, as hereinafter provided, such
4 sum as shall cover all necessary traveling and other
5 necessary expense of the members of the commission.
6 All moneys so received by the commission in excess
7 of three thousand five hundred dollars per annum shall
8 be by the secretary of said commission paid over to the
9 treasurer of the state of West Virginia, together with the
10 full financial statement of all moneys received and ex-
11 pended, and the secretary of the commission shall an-
12 nually make report of the fiscal affairs of the commission
13 for the preceding year to the treasurer of the state of
14 West Virginia.

CHAPTER 81

(House Bill No. 202—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter twenty-nine of the code of West
Virginia, one thousand nine hundred thirty-one, as amend­
ed, by adding thereto a new article, to be designated article
eleven, relating to the creation of an agency for the receipt
and distribution of surplus property.

)Passed March 9, 1949: in effect from passage. Approved by the Governor.

Article 11. Surplus Property Agency.

Section

1. Creation and authority of surplus property agency.

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, to be designated article
eleven, relating to the creation of an agency for the receipt
and distribution of surplus property,

Section 1. Creation and Authority of Surplus Property
Agency.—There is hereby established an agency, to be
known as the “State Agency for Surplus Property”, with
exclusive authority to receive, from the secretary of the
army, secretary of the navy, and secretary of the air force,
or any other federal department, such equipment, mate-
COMMISSION ON POTOMAC RIVER BASIN

CHAPTER 82

(House Bill No. 144—By Mr. Powell, of Hampshire)

AN ACT to amend chapter eighty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, by adding thereto a new section, to be designated section one-a, relating to the establishment of the “Interstate Commission on the Potomac River Basin”.

(Passed February 14, 1949; in effect ninety days from passage. Approved by the Governor.)

Interstate Commission on Potomac River Basin.

Section 1-a. Appointment of alternates.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended by adding thereto a new section, to be designated section one-a, to read as follows:

Section 1-a. Appointment of Alternates.—The governor, by and with the consent of the senate, shall appoint an alternate member for the two members of the commission who are not ex officio, and each alternate shall have power to act in the absence of the person for whom he is alternate. The governor shall appoint the
CHAPTER 83
(House Bill No. 278—By Mr. Greenlee)

AN ACT to amend and reenact article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the creation, alteration and dissolution of municipal corporations; and to amend and reenact sections one and two, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the election of officers thereof.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the Governor.]

Article
2. Creation, Alteration and Dissolution of Municipal Corporations.
3. Election, Appointment and Qualification of Officers.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Creation, Alteration and Dissolution of Municipal Corporations.

Section
1. Requirements for incorporation; territory; population.
2. Survey and map; verification.
3. Public examination of survey and map.
4. Notice of application for charter.
5. Publication of notice.
6. Application to county court.
7. Hearing on petition.
8. Census; verification.
10. Election for incorporation.
11. Certificate of incorporation.
12. Costs of incorporation.
13. Change of corporate boundary.
14. Council to certify change of boundary; order.
15. Forfeiture of charters, dissolution of municipal corporations.
16. Voluntary discontinuance of charters.
17. Appeals.

Section 1. Requirements for Incorporation; Territory; Population.—Any part of any district or districts not included within any incorporated municipality and containing a resident population of not less than one hundred persons, if such part shall include within its boundaries a territory of not less than one-quarter of one square mile and an amount of territory not disproportionate to the number of residents thereof (the exact extent of the territory to be included therein to be within the reasonable discretion of the county court granting the charter based on the reasonable benefits expected to be derived from such incorporation by the majority of the residents thereof), may be incorporated as a city, town or village, of any classification defined by section four, article one, chapter eight-a of the code, as enacted by section four, article one, chapter fifty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, under the applicable provisions of this article.

Sec. 2. Survey and Map; Verification.—The persons intending to make application for the incorporation of such municipality shall cause an accurate survey and map of the territory intended to be embraced therein to be made by a practical surveyor. Such survey and map shall show the courses and distances of the boundaries thereof, and the amount of territory contained therein. The accuracy of such survey and map shall be verified by the affidavit of such surveyor annexed thereto.

Sec. 3. Public Examination of Survey and Map.—Such survey and map, when completed and verified as aforesaid, shall be left at the residence or place of business, within such territory, of some person residing therein, and shall be subject to examination at all reasonable hours, by every person interested in such application for the period of four weeks at least from the posting of first pub-
Sec. 4. Notice of Application for Charter.—The persons intending to make such application shall give notice that, on some day specified in such notice, they will apply by petition to the county court of the county in which such territory lies, or, if it lies in more than one county, to the county court of one of the counties to be named in such notice, for a certificate of incorporation of such territory as a city, town or village, by a name to be therein specified. Such notice shall describe the boundaries of such territory by courses and distances, and specify the district or districts in which it lies; and it shall state where such survey and map have been left for examination, as aforesaid.

Sec. 5. Publication of Notice.—If there be a newspaper printed within such territory, such notice shall be published in such newspaper once a week for three successive weeks previous to the time specified therein for making such application; and, if there be no such paper, the notice shall be posted and kept posted in at least three of the most public places in such territory, for at least three weeks before the time so specified therein.

Sec. 6. Application to County Court.—Such application shall be made to the county court on the day specified in the aforesaid notice by petition to be subscribed by at least ten residents of the territory sought to be incorporated. The petition shall set forth the boundaries of the territory, the quantity of land embraced therein, and the estimated population of the said territory. It shall have attached thereto a copy of the said survey and map of said territory, verified as aforesaid, a copy of the aforesaid notice with the affidavit attached thereto of some credible person with knowledge thereof that said notice had been published as hereinbefore required and that public examination of the said survey and map had been afforded as required. The petition shall be verified by one or more of the petitioners.

Sec. 7. Hearing on Petition.—Upon the filing of said
petition with the court upon the day specified, the court shall proceed as expeditiously as possible to determine to its satisfaction that the amount of territory proposed to be incorporated is not disproportionate to the number of residents thereof; that the map and survey accurately show and describe the territory to be incorporated; that said map and survey were subject to examination in the manner and for the time hereinbefore prescribed; and that the requirements of this act have been fully complied with; and by its order shall appoint not less than two qualified persons to take a census of the inhabitants of said territory, as hereinafter provided, at a time to be specified in said order not exceeding thirty days from the entry thereof, and shall also specify a day not exceeding sixty days from the entry of said order, on which all the qualified voters residing within such territory will meet at a place to be named therein within the hours named therein, to vote upon the question of such incorporation. Not less than three commissioners of election to be named by the court in said order, shall preside over such election and make return thereof as hereinafter provided.

Sec. 8. Census; Verification.—On the day named in the foregoing order, the persons appointed therein shall proceed to take the census of the residents of said territory. Such census shall exhibit the name of every head of a family residing in such territory on such day, and the number of persons then belonging to every such family; and it shall be verified by the affidavit of the persons taking the same, annexed thereto. Upon completion of said census the same shall be returned to the county court and become a part of the record in the cause.

Sec. 9. Notice of Election for Incorporation.—Notice of the day named by the court for voting on the question of incorporation shall be published once in each week for three successive weeks previous to said day, if there be a newspaper published within such territory; and, if there be no such paper, the notice shall be posted and kept posted in at least three of the most public places in such territory, for at least three weeks before the time so specified therein.
Sec. 10. Election for Incorporation.—On the day named in such notice for the taking of the vote hereinbefore mentioned, the qualified voters who have resided within the proposed bounds of such corporation for sixty days preceding such election shall meet at the place named in such notice and cast their votes for, or against, such incorporation. Each voter shall deposit a ballot in a ballot box to be provided for that purpose. Each ballot shall have written or printed thereon the words:

☐ For Incorporation
☐ Against Incorporation

Such election shall be held under the superintendence of the commissioners of election appointed by the county court, and the result of such election shall be certified under oath and returned by them to the county court as soon as may be after such election. In the event of vacancy due to the failure or refusal to act of any election commissioner, such vacancy may be filled by the other commissioners.

Sec. 11. Certificate of Incorporation.—Upon the filing of the certificate of election aforesaid, and upon satisfactory proof that all the provisions of the foregoing sections of this article have been complied with, if it appear that a majority of the legal votes cast on the question were in favor of such incorporation, the county court shall, by an order entered of record, direct the clerk of the said court to issue a certificate of incorporation in form or in substance, as follows: A certificate under oath of A - B -, C - D -, and E - F - was this day filed, showing that a majority of all the qualified voters residing in the following boundary, to-wit:

Beginning, etc. (here recite the boundaries), have voted in due form of law, in favor of the incorporation of the city (town or village) of _____________________, in the county of ________________, bounded as herein set forth. And as it appears to the satisfaction of the court that all the provisions of chapter eight of the code of West Virginia have been complied with by the applicants of said incorporation, said city (town or village) is a body corporate, duly authorized within the corporate limits aforesaid, or as otherwise provided, to exercise all the corpor-
ate powers conferred by the said chapter from and after
the date of this certificate.

C. H., Clerk

Sec. 12. Costs of Incorporation.—All reasonable costs
incurred in procuring incorporation under this chapter
shall be paid by the corporation. In case of failure to
obtain incorporation, all such costs shall be paid by the
petitioners: Provided, That the petitioners shall furnish
bond of sufficient surety to cover all costs involved in
holding such election and ascertaining results thereof.

Sec. 13. Change of Corporate Boundary.—Any five or
more freeholders residing in any municipal corporation,
desiring to change the corporate limits thereof may file
their petition in writing with the council thereof setting
forth the change proposed in the metes and bounds of
such corporation, and asking that a vote be taken upon
the proposed change. The council shall thereupon order
a vote of the qualified voters residing in such corporation
to be taken upon the proposed change at a time and place
therein to be named in the order, not less than twenty
nor more than thirty days from the date thereof, and if
it be proposed to include any additional territory within
such corporate limits, the council shall at the same time
order a vote of all the qualified voters residing on such
additional territory, and of all such voters owning any
part of such territory, whether they reside therein or
not, to be taken upon the question on the same day, at
some convenient place on or near such additional terri-
tory. The election shall be held, superintended and con-
ducted, and the result thereof ascertained, certified and
returned, in the same manner and by the same persons
as elections for town officers. The ballots cast on such
question shall have written or printed on them the
words:

☐ For change of corporate limits
☐ Against change of corporate limits

If a majority of all the votes so cast within such cor-
poration be in favor of the proposed change, and no addi-
tional territory is proposed to be included therein, the
corporate limits of such town shall thereafter be as pro-
posed by such petition. But, if additional territory is proposed to be included in such corporate limits, such change shall not take effect unless a majority of all the votes cast by the persons residing in such territory and owning any portion thereof be also in favor of such change.

Sec. 14. Council to Certify Change of Boundary; Order.

The council of such town shall enter the result of such election upon its minutes, and, when the change proposed is adopted, as provided in the preceding section, shall certify the same to the county court of the county; and such court may thereupon, at its discretion, enter an order in substance as follows:

A certificate of the council of the city (town or village, as the case may be) of ................................, was this day filed showing that a change has been made, in the manner required by law, in the corporate limits thereof, and that by such change the said corporate limits are as follows:

Beginning at (here recite the boundaries, as changed). It is, therefore, ordered that such change in said corporate limits be, and the same is hereby approved and confirmed, and the clerk of the court is directed to deliver to the said council a certified copy of this order as soon as practicable after the rising of this court. And after the date of such order the corporate limits of such town shall be as set forth therein.

Sec. 15. Forfeiture of Charters, Dissolution of Municipal Corporation.—Any town heretofore incorporated under the provisions of this chapter or which shall hereafter be incorporated under the provisions of this chapter, and which has no bonded indebtedness, and which shall fail for one year to exercise its corporate powers and privileges, or which has not twenty legal voters residing therein, or in which there were not twenty legal votes cast at its last election, or the population of which shall be reduced below seventy-five persons and so remain for six months, shall in either event thereby forfeit its charter so granted, and all rights, powers and privileges so conferred upon such town. And the circuit court of the county where any such town is located within this state
shall have jurisdiction to hear and determine all matters relating to the forfeiture and dissolution of all such charters granted as hereinbefore provided, upon the petition of one or more of its inhabitants, or any ten freeholders of the county wherein such town is located, to annul and declare forfeited such charter, and shall dissolve the corporation. Ten days' notice of the filing of such petition with the clerk of the circuit court of the county wherein such town is located, served upon the mayor and recorder thereof, shall be sufficient notice upon which the judge of such court shall so act, and upon proper proof of the allegations of such petition, all such charters so granted shall be declared forfeited and the corporation dissolved. But if the territory so incorporated, or a major part thereof, either in area or in population, shall, within one year next after such declaration of forfeiture and dissolution by the circuit court, be reincorporated as a city, town or village, then the auditor of the state of West Virginia shall convey unto such new corporation all of the rights of the state of West Virginia in and to the corporate property moneys, claims, demands and taxes collected or uncollected, of the former corporation so dissolved.

Sec. 16. Voluntary Discontinuance of Charters.—Upon the petition of twenty-five per cent of the voters of any incorporated town containing not more than fifteen hundred inhabitants, the council thereof shall submit to the voters of such town at the next municipal election, or at a special election called for that purpose, the question of continuing or discontinuing the charter rights of such town. The ballots used in voting shall have written or printed upon them the words:

☐ For continuance of charter.
☐ For discontinuance of charter.

If a majority of the votes cast be "For discontinuance of charter," then the charter rights and privileges of such town shall cease with the terms of office of the council then in existence: Provided, That all debts or other obligations outstanding against such corporation shall be settled in full.

Sec. 17. Appeals.—An appeal may be taken to the cir-
Sec. 18. Charters Heretofore Granted Valid.—This enactment shall not affect the validity of any charter of incorporation heretofore granted to any city, town or village, under special act or general law.

Article 3. Election, Appointment and Qualification of Officers.

Section 1. First election of officers; commissioners of election.

Section 2. When first election held; notice.
CHAPTER 84
(Senate Bill No. 120—By Mr. Sinsel)

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 ten-f, granting municipalities power to expend public funds for the purchase of public liability, bodily injury liability and property damage liability insurance policies for the protection of such municipalities against the negligent operation of motor vehicles owned by them, and against negligence in the operation of any proprietary or commercial function of such municipalities.

[Passed March 3, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section 10-f. Public liability, bodily injury liability and property damage liability insurance by municipalities.

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 the addition thereto of a new section to be designated ten-f to read as follows:

Section 10-f. Public Liability, Bodily Injury Liability and Property Damage Liability Insurance by Municipalities.—The governing body of every municipal corporation within this state is hereby expressly authorized to expend public funds for the purchase of public liability, bodily injury liability and property damage liability insurance policies for the protection of such municipalities, its officers, agents and employees against the negligent operation of all motor vehicles owned by such municipality, and against negligence in the operation of any proprietary or commercial function of such municipality.
CHAPTER 85

(House Bill No. 397—By Mr. File, by request)

AN ACT to amend and reenact section seventeen, chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to establishment, maintenance, adjustment, readjustment, collection and enforcement of rates or charges for municipal public works, and providing for the collection and enforcement of rates or charges heretofore or hereafter established and maintained for the improvement or protection of property, provided or afforded by a municipal flood control system from the time provided in the municipal ordinance or resolution establishing such rates or charges, if, at such time, such works, though not yet fully constructed, are nearing completion and the municipal authorities are reasonably assured that such works will be completed and placed in operation without unreasonable delay.

[Passed March 12, 1949: in effect from passage. Approved by the Governor.]

Municipal Public Works.

Section 17. Charges for services rendered by works.

Be it enacted by the Legislature of West Virginia:

That section seventeen, chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 17. Charges for Services Rendered by Works.—
2 Municipal authorities shall have the power and it shall
3 be their duty, by ordinance or resolution, to establish and
4 maintain just and equitable rates or charges for the use
5 and services rendered, or the improvement or protection
6 of property, provided or afforded by such works, to be
7 paid by the person using the same, receiving the services
8 thereof, or owning the property improved or protected
9 thereby, and may readjust such rates or charges from
10 time to time. Rates or charges heretofore or hereafter
11 established and maintained for the improvement or pro-
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12 tection of property, provided or afforded by a municipal
13 flood control system, to be paid by the person owning
14 the property improved or protected thereby, shall be
15 collectible and enforceable from the time provided in such
16 ordinance or resolution, any provision of this or any other
17 law to the contrary notwithstanding, if, at such time,
18 such works, though not yet fully constructed, are nearing
19 completion and such municipal authorities are reason-
20 ably assured that such works will be completed and placed
21 in operation without unreasonable delay. Such rates or
22 charges shall be sufficient in each year for the payment
23 of the proper and reasonable expenses of operation, repair,
24 replacements and maintenance of the works, and for the
25 payment of the sums herein required to be paid into the
26 sinking fund.
27 Revenues collected pursuant to this section shall be
deemed the revenues of the works. No such rates or
28 charges shall be established until after a public hearing
29 at which all the users of the works and/or owners of the
30 property served, or to be served thereby, and others inter-
31 ested, shall have an opportunity to be heard concerning
32 the proposed rates or charges. After introduction of pro-
33 posal of the ordinance or resolution fixing such rates or
34 charges and before the same is finally enacted or passed,
35 notice of such hearing, setting forth the proposed schedule
36 of such rates or charges, shall be given by publishing
37 same once each week for two successive weeks in two
38 newspapers of opposite political faith published in such
39 municipality, or in one newspaper, if only one political
40 faith is represented by newspapers in the said munici-
41 pality, or, if there be no newspapers so published, then
42 such ordinances shall be posted in at least three public
43 places therein, the first publication or posting of said no-
44 tice to be at least ten days before the date fixed in such
45 notice for the hearing, which hearing may be adjourned
46 from time to time. No other or further notice to parties
47 at interest shall be required. After such hearing the ord-
48inance or resolution establishing rates or charges, either
49 as originally proposed or introduced, or as modified and
50 amended, shall be passed or adopted and put into effect.
51 A copy of the schedule of such rates and charges so estab-
lished shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the municipal authorities, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served, shall be extended to cover any additional class of users or property thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of rates may be made in the same manner as such rates or charges were originally established as hereinabove provided. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repairs and maintenance, and for such sinking fund payments. If any service rates, charge or fee so established shall not be paid within thirty days after the same is due, the amount thereof may be recovered by the board in a civil action in the name of the municipality, and in the case of charges due for services rendered, such charges, if not paid when due, may, if council so provide in the ordinance provided for under section six of this act, constitute a lien upon the premises served by such works, which lien may be foreclosed against such lot, parcel of land or building so served, in accordance with the laws relating to the foreclosure of liens on real property. Upon failure of any person receiving any such service to pay for same when due, the board may discontinue such service without notice.

CHAPTER 86
(Senate Bill No. 272—By Mr. Eddy)

AN ACT to amend and reenact section twenty-five, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal public works, additional powers, and extraterritorial jurisdiction.
Article 4-a. Municipal Public Works; Bonds.

Section 25. Article confers additional powers; extraterritorial jurisdiction.

Be it enacted by the Legislature of West Virginia:

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

Section 25. Article Confers Additional Powers; Extraterritorial Jurisdiction.—The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any constitutional, statutory or charter provisions which it may now have, or may hereafter acquire or adopt. For all purposes of this article, municipalities shall have jurisdiction for ten miles outside of the corporate limits thereof, except where such zone would overlap with another municipality, in which event the meridian line of the overlapping zone shall be the dividing line of their respective jurisdictions, except that one municipality shall have jurisdiction within such ten-mile zone and may overlap into the jurisdiction of another municipality or municipalities with the consent thereof.

CHAPTER 87

(Com. Sub. for House Bill No. 246—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact section seven, article five-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to examinations and eligible lists for police departments.

Article 5-a. Civil Service for Police Departments.

Section 7. Examinations; eligible lists.
Be it enacted by the Legislature of West Virginia:

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

Section 7. Examinations; Eligible Lists.—All examinations for positions or promotions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the person or persons examined to discharge the duties of the employment sought by him or them. All examinations shall be open to all applicants who have fulfilled the preliminary requirements, stated in other sections of this article. All applicants for any position in police department shall, as hereinafter stated, subject to regulations adopted by the civil service commission, be required to submit to a physical examination before being admitted to the regular examinations held by the commission. Said applicant shall have been a resident for three years next preceding date of his application, of the city or municipality in which he seeks to obtain employment in the police department: Provided, That if the commission deems it necessary it may consider applicants who are not residents of the city or municipality but who have been residents of the county in which the city or municipality is situated for the same period of time. Adequate public notice of the time and place of every examination held under the provisions of this article, together with information as to the kind of position or place to be filled, shall be given at least one week prior to such examination. The said commission shall adopt reasonable regulations for permitting the presence of representatives of the press at the examinations. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed examinations for positions in police departments, under this article, and shall indicate thereon such appointments as may be made from said list.
CHAPTER 88

(Com. Sub. for House Bill No. 176—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to repeal chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-three; chapter seventy-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter sixty-seven, acts of the Legislature, one thousand nine hundred thirty-five; chapter one hundred seventy-three, acts of the Legislature, one thousand nine hundred thirty-nine; chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred forty-seven; and to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article six-a, relating to the appointment and promotion of members of paid fire departments in cities and municipalities; and to provide for the creation and maintenance of a civil service commission for that purpose; to establish rules and procedure therefor; to regulate the manner in which demotions and discharge of employees of paid fire departments shall be made, and the rights and limitations of said employees in that respect; to provide for other matters relating to the duties and powers of said civil service commission, defining its powers, limiting its authority, etc.; and to provide penalties for the violations of the provisions of this act.

[Passed March 10, 1949; in effect from passage. Approved by the Governor]

Article 6-a. Paid Fire Departments.

Section
1. Paid fire departments.
2. Civil service commission created.
3. Clerk of commission; clerical and stenographic services.
4. Rooms, stationery, etc., to be furnished by municipality.
5. Powers and duties of commission.
6. Rules and regulations for examinations, probationary appointments.
7. Character and notice of examinations; qualifications of applicants; press representatives; posting eligible lists.
8. Form of application for examination; refusal to examine.
9. Appointments from list of eligibles; appointing officer; special examinations for electricians or mechanics.
11. Vacancies filled, as far as practicable, by promotions; eligibility for promotion.
12. Physical examination and age of applicant; exceptions.
13. Removal, discharge or reduction in rank or pay.
14. Political or religious opinions or affiliations of applicants.
15. Misdemeanors.
16. Penalties.
17. Political activity of members of fire departments under civil service.
18. Repeal of conflicting laws; intent of article.

Be it enacted by the Legislature of West Virginia:

That chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-three; chapter seventy-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter sixty-seven, acts of the Legislature, one thousand nine hundred thirty-five; chapter one hundred seventy-three, acts of the Legislature, one thousand nine hundred thirty-nine; chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred forty-seven, are all hereby repealed, and that chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be further amended by adding thereto a new article designated article six-a, to read as follows:

Section 1. Paid Fire Departments.—Appointments to and promotions in all paid fire departments of cities of any population whatsoever, regardless of whether here­tofor operating under special charter or under the provi­sions of chapter eight, relating to municipal corporations, or chapter eight-a, relating to municipal home rule, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided. On and after the aforesaid date, no person shall be appointed, reinstated, promoted or dis­charged as a paid member of said fire department, regard­less of rank or position, in any fire department, of any city in the state of West Virginia, in any manner or by any means others than those prescribed in this article.
Sec. 2. Civil Service Commission Created.—There shall be a "civil service commission" in each city or incorporated town having a fire department, any of the members of which are paid by said city or municipality. This civil service commission shall consist of three commissioners, one of whom shall be appointed by the mayor or principal executive officer of said city; one of whom shall be appointed by the local trades board in event that said board shall exist in said city, or in case no such board exists in said city, then by the paid international association of fire fighters; and the third shall be appointed by the local chamber of commerce. The persons appointed commissioners shall be qualified voters of the city or municipality for which they are appointed; and at least two of said commissioners shall be persons in full sympathy with the purposes of this article. Not more than two of the said commissioners, at any one time, shall be adherents of the same political party. The commissioners in each city shall be appointed as follows: Within thirty days after this article takes effect, the person, organization or board having appointive power to this civil service commission shall appoint three commissioners, the first of which to be appointed by the mayor or principal executive officer shall serve for six years from the date of his appointment; the second commissioner to be appointed by the local trades board, or in the absence of such board, by the international association of fire fighters, shall serve for four years from the date of his appointment; and the third commissioner to be appointed by the chamber of commerce of each city or municipality for a term of two years from the date of his appointment; in the absence of the existence of a board of commerce, at time any appointment is to be made—this third appointment shall be made by the other two members by mutual agreement; thereafter all appointments shall be made for periods of four years each by the appointing power hereinbefore designated. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal, or other cause, a new commissioner shall be appointed to fill out
the unexpired term of said commissioner within ten days
after said ex commissioner shall have ceased to be a mem-
ber of said commission. Such appointment shall be made
by the officer or body who in the first instance appoint-
ed the commissioner who is no longer a member of the
commission. The three members of the commission shall,
together, elect one of their number to act as president
of the commission, who shall serve as president for one
year. Each year thereafter the commissioners shall elect
one of their number president, the member so elected to
serve one year. The mayor or principal executive officer,
may, at any time, remove a commissioner for good cause,
which shall be stated in writing and made a part of the
records of the commission: Provided, however, That once
the mayor has to remove any commissioner, such removal
shall be temporary only and shall be in effect for a period
of ten days, if at the end of said period of ten days the
circuit court of the county in which said city or munici-
pality is located, is in term or session. Within said ten
day period the mayor shall file in the office of the clerk
of the circuit court of said county a petition setting forth
in full the reason for said removal and praying for the
confirmation by said circuit court of the action of the
mayor in so removing the said commissioner. A copy of
said petition, in writing, shall be served upon the com-
missioner so removed simultaneously with its filing in
the office of the clerk of the circuit court and shall have
precedence on the docket of said court and shall be heard
by said court as soon as the removed commissioner shall
demand. All rights hereby vested in said circuit court
may be exercised by the judge thereof during vacation.
In event that no term of circuit court is being held at
the time of the filing of said petition, and the judge there-
of can not be reached in the county wherein the petition
was filed, said petition shall be heard at the next suc-
ceeding term of said circuit court, whether regular or
special, and the commissioner so suspended shall remain
suspended until a hearing is had upon the petition of the
mayor. The court, or the judge thereof, in vacation, shall
hear and decide upon said petition. The contestant against
whom the decision of the court, or judge thereof, in va-
cation, shall be rendered, shall have the right to petition
the supreme court of appeals for a review of the decision
of the circuit court, or the judge thereof, in vacation, as
in chancery cases. In event that the mayor shall fail to
file his petition in the office of the clerk of the circuit
court, as hereinbefore provided, within ten days after
the removal of said commissioner, such commissioner
shall immediately resume his position as a member of
the civil service commission.

Any citizen or citizens shall have the right, at any time,
to file charges against any member of the civil service
commission; such charges shall be filed in the form of a
petition in the office of the clerk of the circuit court, a
copy of said petition, in writing, to be served upon the
commissioner sought to be removed. Said petition shall
be matured for hearing and heard by the circuit court
of the county wherein the said city or municipality for
which such commissioner serves, as a member of the
civil service commission, in the same manner as chan-
cery proceedings in the circuit courts of West Virginia
are heard, saving the right to petition the supreme court
of appeals for a review of the action of the circuit court
to the contestant against whom the circuit court's deci-
sion is rendered.

No commissioner shall hold any other office under the
United States the state of West Virginia, or any city,
county or other political subdivision thereof; nor shall
any commissioner serve on any political committee or
take any active part in the management of any political
campaign.

Sec. 3. Clerk of Commission; Clerical and Stenographic
Services.—The city clerk or city recorder of any mu-
cipality under the terms of this article shall ex officio
be clerk of the civil service commission and shall supply
to the commission without extra compensation all neces-
sary clerical and stenographic services for the work of
the civil service commission.

Sec. 4. Rooms, Stationery, etc., to Be Furnished by
Municipality.—It shall be the duty of the mayor, or prin-
3 principal executive officer, and heads of departments of every
4 city to cause suitable and convenient rooms and accomo-
5 dations to be assigned and provided, and to be furnished,
6 heated and lighted for carrying on the work and exam-
7 inations of the civil service commission. The civil ser-
8 vice commission may order from the proper authorities
9 the necessary stationery, postage stamps, official seal
10 and other articles to be supplied, and the necessary print-
11 ing to be done for its official use. It shall be the duty of
12 the officers of every city to aid the civil service commis-
13 sion in all proper ways in carrying out the provisions
14 of this article, and to allow the reasonable use of public
15 buildings, and to heat and light the same, for holding
16 examinations and investigations, and in all proper ways
17 to facilitate the same.

Sec. 5. *Powers and Duties of Commission.*—The civil
2 service commission in each city or municipality, within
3 the terms of this article, shall:
4 First: Prescribe, amend and enforce rules and regu-
5 lations for carrying into effect the provisions of this article.
6 All rules so prepared may, from time to time, be added to,
7 amended or rescinded: Provided, That all rules shall be
8 approved by the mayor or principal executive officer and
9 the council and if no council, the principal governing body,
10 before they go into effect, but when so approved shall not
11 be annulled or changed except by the commission with
12 the approval of the mayor or principal executive officer
13 and the council, or principal governing body: Providing
14 further, however, That if said executive officer and said
15 governing body takes no action on a rule or amendment
16 submitted to them within a period of twenty days from
17 the date of its submission, then the rule or amendment
18 shall become effective as though approved by the princi-
19 pal executive officer and principal governing body;
20 Second: Keep minutes of its own proceedings, and
21 records of its examinations and other official actions. All
22 recommendations of applicants for office, received by the
23 said commission or by any officer having authority to
24 make appointments to office, shall be kept and preserved
25 for a period of ten years, and all such records, recommen-
26 dations of former employees excepted, and all written
causes of removal, filed with it, shall, subject to reasonable regulation, be open to public inspection;

Third: Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this article, and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the commission, or any person in the public service in respect to the execution of this article; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations, and to take testimony;

Fourth: Have power to subpoena and require the attendance of witnesses, and the production thereof of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts, and shall be paid from the appropriation for the incidental expenses of the commission. All officers in the public service, and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by said commission. Any disobedience to, or neglect of any subpoena issued by the said commissioners, or any one of them, to any person, shall be held a contempt of court, and shall be punished by any circuit court, within the county in which is the city from the civil service commission of which the said subpoena had issued, as if such subpoena had been issued therefrom. Any judge of any of said courts shall, upon the application of any one of said commissioners, in such cases, cause the process of said court to issue to compel such person or persons, disobeying or neglecting any such subpoena, to appear and to give testimony before the said commissioners, or any one of them, and shall have power to punish any such contempt;

Fifth: Make an annual report to the mayor or principal executive officer, showing its own action, and rules and regulations, and all the exceptions thereto in force,
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68 and the practical effects thereof, and any suggestions
69 it may approve for the more effectual accomplishment
70 of the purposes of this article. Such report shall be avail-
71 able for public inspection five days after the same shall
72 have been delivered to the mayor or principal executive
73 officer of any city or municipality.

Sec. 6. Rules and Regulations for Examinations; Prob-
2 bationary Appointments.—The civil service commission,
3 in each city, shall make rules and regulations providing
4 for examinations for positions in the paid fire depart-
5 ment in each municipality under this article, and for
6 appointments to and promotions therein, and for such
7 other matters as are necessary to carry out the purposes
8 of this article. Due notice of the contents of such rules
9 and regulations and of any modifications thereof shall
10 be given, by mail, in due season, to appointing officers
11 affected thereby; and said rules and regulations and
12 modifications thereof shall also be printed for public dis-
13 tribution. All original appointments to any positions in
14 fire departments within the terms of this article shall be
15 for a probationary period of six months: Provided, how-
16 ever, That at any time during the probationary period
17 the appointee may be dismissed for just cause, in the
18 manner provided in section thirteen. If, at the close
19 of this probationary term, the conduct or capacity of
20 the probationer has not been satisfactory to the appoint-
21 ing officer, the probationer shall be notified, in writing,
22 that he will not receive absolute appointment, where-
23 upon his employment shall cease; otherwise, his reten-
24 tion in the service shall be equivalent to his final
25 appointment.

Sec. 7. Character and Notice of Examinations; Qualifi-
2 cations of Applicants; Press Representatives; Posting
3 Eligible Lists.—All examinations for positions or promo-
4 tions shall be practical in their character, and shall relate
5 to such matters, and include such inquiries, as will fairly
6 and fully test the comparative merit and fitness of the
7 persons examined to discharge the duties of the employ-
8 ment sought by them. All examinations shall be open to
9 all applicants who have fulfilled the preliminary require-
ments, stated in other sections of this article. All applicants for any position in the fire department shall, as hereinafter stated, subject to regulations adopted by the civil service commission, be required to submit to a physical examination before being admitted to the regular examinations held by the commission. Said applicant shall have been a resident for three years next preceding date of his application, of the city or municipality in which he seeks to obtain employment on the fire department: Provided, That if the commission deems it necessary it may consider applicants who are not residents of the city or municipality but who have been residents of the county in which the city or municipality is situated for a period of at least three years and who shall agree, if accepted for employment, to reside within the corporate limits of the municipality where employed: Provided, further, That employees who shall have been employed by the fire department for a period exceeding twenty years shall have the right to reside outside the city limits in the county of said corporate limits. Adequate public notice of the time and place of every examination held under the provisions of this article together with information as to the kind of position or place to be filled, shall be given at least one week prior to such examinations. The said commission shall adopt reasonable regulations for permitting the presence of representatives of the press at the examinations. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed examinations for positions in fire departments, under this article, and shall indicate thereon such appointments as may be made from said lists.

Sec. 8. Form of Application for Examination; Refusal to Examine.—The civil service commission, in each city, shall require persons applying for admission to any examination provided for under this article or under the rules and regulations of the said commission, to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

First: His full name, residence, and post office address;
Second: His citizenship, age, and the place and date of his birth;
Third: His health, and his physical capacity for public service;
Fourth: His business and employments and residences for at least three previous years;
Fifth: Such other information as may reasonably be required, touching the applicant's qualifications and fitness for the public service.

Blank forms for such applications shall be furnished by the said commission, without charge, to all persons requesting the same. The said commission may require, in connection with such application, such certificate of citizens, physician or others, having knowledge of the applicant, as the good of the service may require. The said commission may refuse to examine an applicant; or, after examination, to certify as eligible, one who is found to lack any of the established preliminary requirements for the examination or position or employment for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating liquors or drugs; or who has been guilty of any crime, or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in his examination, or in securing his eligibility; or who refuse to comply with the rules and regulations of the commission.

If any applicant feels himself aggrieved by the action of the commission in refusing to examine him, or after an examination, to certify him as an eligible, as provided in this section, the commission shall, at the request of such applicant, appoint a time and place for a public hearing; at which time such applicant may appear, by himself or counsel, or both, and the commission shall then review its refusal to make such examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses
requested by him. After such review, the commission shall file the testimony taken, in its records, and shall again make a decision, which decision shall be final.

Sec. 9. Appointments from List of Eligibles; Appointing Officer; Special Examinations for Electricians or Mechanics.—Every position or employment, unless filled by promotion, reinstatement, or reduction, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he desires to fill, and shall request the certification of eligibles. The commission shall forthwith certify, from the eligible list, the names of the three persons thereon who received the highest averages at preceding examinations held under the provisions of this article within a period of three years next preceding the date of such appointment. The appointing officer shall, thereupon, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three names so certified: Provided, however, That should he make objection, to the commission, to one or more of these persons for any of the reasons stated in section eight, and should such objections be sustained by the commission, as provided in section eight, the commission shall thereupon strike the name of such person from the eligible list, and certify the next highest name for each person so stricken off. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: Provided, however, That after any name has been three times rejected, for the same or another position, in favor of a name or names below it on the same list, the said name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the foregoing provisions. When an appointment is made under the provisions of this section it shall be, in the first instance, for the probationary period of six months, as provided in section six: Provided, however, That in event any position as an electrician or mechanic is to be filled upon any paid fire department, then the examinations to
be given to applicants for either the positions of electrician or mechanic shall be so drawn as to test only the qualifications of such applicants in regard to their ability as electricians or mechanics, such examinations to be special examinations.

The term "appointing officer" as used in this article shall be construed to mean the municipal officer in whom the power of appointment of members to a paid fire department is vested by the charter of a city or municipality in which an appointment shall be made.

Sec. 10. Noncompetitive Examination for Filling Vacancy and Provisional Appointment.—Whenever there are urgent reasons for filing a vacancy in any position in the fire department and there is no list of persons eligible for appointment after a competitive examination, the appointing officer may nominate a person to the civil service commission for noncompetitive examination; and if such nominee shall be certified by the said commission as qualified, after such noncompetitive examination, he may be appointed provisionally, to fill such vacancy until a selection and appointment can be made after competitive examination, in the manner prescribed in section nine; but such provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments be made to the same position, under this provision.

Sec. 11. Vacancies Filled, as Far as Practicable, by Promotions; Eligibility for Promotion.—Vacancies in positions in the fire department shall be filled, so far as practicable, by promotions from among persons holding positions in the next lower grade in the department. Promotions shall be based upon merit to be ascertained by tests to be provided by the civil service commission and upon the superior qualifications of the persons promoted, as shown by his previous service and experience: Provided, however, That no person shall be eligible for promotion from the lower grade to the next higher grade until such person shall have completed at least two years' service in the next lower grade in the department. The commission shall have the power to determine in each in-
stance whether an increase in salary constitutes a pro-
motion: Provided, however, That in all cities in which
the office of chief was not covered by the provisions of
this article on the first day of January, one thousand nine
hundred forty-nine, such office in such city shall be ex-
cepted from the provisions of this article until such time
as the governing body in said city shall, by appropriate
resolution or ordinance adopted by a majority of its mem-
bers, elect to place the office of chief under the provisions
of this article: And provided further, That those chiefs
now in office, or hereinafter appointed to such office, shall
in all cases of removal, except for removals for malfeas-
ance or misfeasance of office, revert to that status they
held at the time of their appointment to the office of chief.

Sec. 12. Physical Examination and Age of Applicant;
Exceptions.—All applicants for any position in the fire
department shall undergo a physical examination which
shall be conducted under the supervision of a commission
composed of two doctors of medicine appointed for that
mission by the mayor or principal executive officer of the
city or municipality. Said commission shall certify that
an applicant is free from any bodily or mental defects,
deformity or diseases that might incapacitate him from
the performance of the duties of the position desired be-
fore said applicant shall be permitted to take further ex-
aminations. No application will be received if the person
applying is less than twenty-one years of age or more
than thirty-five years of age at the date of his applica-
tion: Provided, however, That in event any applicant has
formerly served upon the fire department of the city to
which he makes application, for a period of more than six
months, and has resigned from the department at a time
when there were no charges of misconduct or other mis-
feasance pending against such applicant, within a period
of two years next preceding the date of his application,
and is a resident of the city or municipality, and is still
a resident of the city or municipality of the fire depart-
ment on which he seeks reinstatement, then such person
shall be eligible for reinstatement in the discretion of the
civil service commission, even though such applicant shall
be over the age of thirty-five years. Such applicant, pro-
viding the former term of service so justifies, may be reappointed to the fire department without examination other than a physical examination; if such person shall be so reinstated to the fire department he shall be the lowest in rank in the department next above the probationers of the department.

Sec. 13. Removal, Discharge or Reduction in Rank or Pay.—No member of any fire department within the terms of this article shall be removed, discharged or reduced in rank or pay except for just cause, which shall not be religious or political; further, no such employee shall be removed, discharged or reduced except as provided in this article, and in no event until he shall have been furnished with a written statement of the reasons for such action. In every case of such removal or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the person sought to be re-

moved desires to file such written answer, shall be fur-

nished to the civil service commission and entered upon its records. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing and the written answer thereto. At such hearing the burden shall be upon the removing officer to justify his action. In event that the civil service commission fails to justify the action of the removing officer, then the person sought to be removed shall be reinstated with full pay for the entire period during which he may have been prevented from performing his usual employment, and no charges be officially recorded against his record. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commis-

sion, which record shall be sealed and not be available for public inspection, in event that no appeal shall be taken from the action of the commission. In event that the civil service commission shall sustain the action of the removing officer the person removed shall have an immediate right of appeal to the circuit court of the
county wherein the city or municipality is situated. Said appeal shall be taken within ninety days from the entry by the civil service commission of its final order; upon such an appeal being taken and docketed with the clerk of the circuit court of said county, the circuit court shall proceed to hear the appeal upon the original record taken therein and no additional proof shall be permitted to be introduced. The circuit court’s decision shall be final, saving to the employee, however, the right to petition the supreme court of appeals for a review of the circuit court’s decision.

The removing officer and the person sought to be removed shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent either of them before said civil service commission and upon appeal; should the person removed elect to appeal to the circuit court as hereinbefore provided: Provided, however, That if for reasons of economy or other reasons it shall be deemed necessary by any city or municipality to reduce the number of paid members of any fire department then said municipality shall follow the following procedure:

First: If there be any paid firemen eligible for retirement under the terms of a pension fund act, if such fund exists in said city or municipality, then such reduction in numbers shall be made by retirement on pension of all such eligible paid members of the fire department;

Second: If the number of paid firemen eligible for retirement under the pension fund of said city or municipality, if such pension fund exists, is insufficient to effect the reduction in numbers of said paid fire department desired by said city or municipality, or if there is no eligible person for retirement under the pension fund of said city or municipality, or if no pension fund exists in said city or municipality, then reduction in members of the paid fire department of said city or municipality shall be effected by suspending the last man or men, including probationers, that have been appointed to said fire department. Such removal shall be accomplished by suspending in numerical order commencing with the last
man appointed to the fire department, all recent appointees to said fire department until such reduction shall have been accomplished: Provided, further, That in event the said fire department shall again be increased in numbers to the strength existing prior to such reduction of members the said firemen suspended under the terms of this article shall be reinstated before any new appointments to said fire department shall be made.

Sec. 14. Political or Religious Opinions or Affiliations of Applicants.—No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiry be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the fire department against, or in favor of, an applicant, eligible, or employee in fire departments under this article because of his political or religious opinions or affiliations.

Sec. 15. Misdemeanors.—Whoever makes an appointment to office, or selects a person for employment, contrary to the provisions of this article, or wilfully refuses or neglects otherwise to comply with, or to conform to, any of the provisions of this article, or violates any of such provisions, shall be deemed guilty of a misdemeanor. Any commissioner or examiner, or any other person, who shall wilfully, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this article, or to any rules or regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified, pursuant to the provisions of this article, or aid in so doing, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered, or certified, or to be
Sec. 16. Penalties.—Misdemeanors under the provisions of this article shall be punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment for a term not exceeding one year, or by both fine and imprisonment, in the discretion of the court.

Sec. 17. Political Activity of Members of Fire Departments under Civil Service.—No member of any fire department within the terms of this article shall engage in any political activity of any kind, character or nature whatsoever, except to cast his vote at any election, and shall not act as an officer of election in any election, municipal or general. Any member of any fire department engaging in any political activity herein prohibited shall be subject to dismissal, as provided by the provisions of this article.

Sec. 18. Repeal of Conflicting Laws; Intent of Article.—All acts and parts of acts of the Legislature of the state of West Virginia, general, special, local or municipal charters, or parts thereof, in relation to any civil service measure affecting the paid fire departments of any city or municipality inconsistent with this article shall be, and the same are hereby repealed insofar as such inconsistencies shall exist. It is understood and intended by this article to furnish a complete and exclusive system for the appointment, promotion, reduction, removal and reinstatement of all officers, firemen or other employees of said fire departments in all cities and municipalities wherein the members of the fire department are paid. And it is further intended that this act shall not in any way affect the status or tenure in office of those employees and personnel now employed by the paid fire departments or the present commissioners.
Chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-three; chapter seventy-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter sixty-seven, acts of the Legislature, one thousand nine hundred thirty-five; chapter one hundred seventy-three, acts of the Legislature, one thousand nine hundred thirty-nine; and chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred forty-seven, are all hereby repealed.

Sec. 19. Severability.—If any provision of this act or the application thereof to any person, city, office, or circumstances, shall be held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

CHAPTER 89
(Com. Sub. for House Bill No. 72—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to authorizing and enabling any municipality in the state to permanently improve streets, avenues, alleys, easements, sidewalks or other public ways by grading, paving surfacing, curbing, or otherwise improving or reimproving the same, and to construct storm sewers and sanitary sewers and sewer systems therein, and to assess the cost of any or all of such improvements on abutting property.

[Passed March 7, 1949; in effect from passage. Approved by the Governor.]

Article 8. Assessments to Improve Streets, Sidewalks, Sewers, etc.

Section
1. Powers of municipal corporations relating to street, sidewalk and sewer improvements.
2. Petition of abutting property owners; action of governing body without petition.
3. Notice to abutting owners to be given before authorizing improvement; form of notice.
4. Sewers and sewer assessments.
5. What total cost to include.
7. Ordinance or resolution authorizing improvement; approval of plans, specifications and estimates; provisions for payment and cost and assessment certificates; advertisement for bids.
8. Report on completion; notice to abutting owners; hearings; assessment.
9. Assessment certificates; issuance, sale and negotiation; recording assessing resolution or ordinance.
10. Liens; payment, suit for enforcement; enforcement; when service may be had by publication.
11. Assessment against property of public, charitable, eleemosynary, educational or religious institutions; duty of those in charge to cause assessments to be paid.
12. Place of payment; release.
13. Re-assessment for void, irregular or omitted assessments.
14. Liberal construction of this act.
15. Effect on special and home rule charter provisions.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Powers of Municipal Corporations Relating to Street, Sidewalk and Sewer Improvements.—Every municipal corporation in this state, whether existing and operating under a special charter, home rule charter or under general law, is hereby authorized and empowered, in addition to any other rights or powers conferred upon it, upon the terms, conditions and in the manner hereinafter set forth, to grade, regrade, pave or repave, surface or resurface, curb or recurb, streets and alleys, and to build or renew sidewalks, and to construct, provide or renew any of such improvements or other permanent public improvements in any streets, alleys, public ways of easements, or portions thereof, in such municipality, and, if deemed advisable, to construct storm and sanitary sewers, or all or a part of a sewer system in any streets, easements, public ways, or alleys, or portions thereof, independently or in conjunction with other of such improvements, and to assess the costs of any or all of such improvements on abutting property.
Sec. 2. Petition of Abutting Property Owners; Action of Governing Body Without Petition.—Upon the petition in writing of persons owning the greater amount of frontage of property abutting upon both sides of any portion of a street, public way, alley, or easement, for any permanent improvement or re-improvement authorized in section one hereof the council or other governing body of any such municipality, by a lawful majority thereof, may, after giving notice to abutting property owners as in this article is provided, by resolution or ordinance declare the necessity or convenience of such improvement and order and cause such portions of such streets, alleys, public ways or easements to be graded, regraded, paved, repaved, surfaced, resurfaced, curbed, recurbed, seweried, resewered, permanently improved or re-improved with sidewalks or otherwise permanently improved or re-improved with suitable material, or any one or more of such improvements without the others, as may be determined by the governing body, to be constructed therein or in such part or parts thereof as the governing body may determine, and such governing body may specially assess the entire cost of such improvements, or any part thereof, upon the property abutting on the portions of the streets, alleys, public ways or easements improved.

Such governing body of the municipality may also adopt such resolution or ordinance of necessity or convenience and provide for such improvements and the assessing of the cost thereof upon abutting property without such a petition of property owners having first been received, when the resolution or ordinance providing for such improvement is adopted by the affirmative vote of at least three-fourths of the members of such governing body by recorded vote, after having given notice to abutting property owners as hereinafter provided.

Sec. 3. Notice to Abutting Owners to be Given Before Authorizing Improvement; Form of Notice.—Before the adoption of such resolution or ordinance of necessity or convenience, the governing body shall cause notice to be
given to owners of abutting property that such resolution or ordinance will be considered before adoption at a public meeting of the governing body at a time and place named in the notice and all persons or corporations shall at that meeting, or an adjournment thereof, be given an opportunity to protest or be heard concerning the adoption or rejection of said resolution or ordinance. Such notice to owners of property abutting on the portion of the street, alley, public way or easement to be improved may be by personal service on owners at least ten days before said meeting. In lieu of personal service of such notice, the following described notice, or one in substantially the same form, may be given, and shall be deemed to have been served on all such owners of abutting property, by publication once a week for three successive weeks before said meeting in some newspaper of general circulation, but not necessarily published, in said municipality, as follows:

"NOTICE TO ALL PERSONS OR CORPORATIONS OWNING PROPERTY ABUTTING ON
(here describe the portion of the street, alley, public way or easement to be improved) IN THE (town or city) OF (name of municipality):

Proposals have been made to the (common council, board of directors, commissioners, or other governing body) of the (town or city) of (name of municipality) to permanently improve the portion of the street (alley, public way or easement) above described in (name of municipality) by (grading, paving, constructing sanitary or storm sewers, constructing sidewalks, or other general description of the proposed improvements) as the (council, board of directors, commissioners, or other governing body) may deem proper, and to assess the cost of such improvements on the property abutting said portion of said street (alley, public way or easement).

The proposals to make such improvements, and the plans, specifications, profiles and estimates will be considered by the (governing body) at a public meeting to be held on the day of..."
19. ..., at ___ M. at ___________. Any abutting owner or interested party will be given an opportunity to protest or be heard at said meeting or an adjournment thereof.

__________________________ (name of the clerk or recorder)

__________________________ (official position)."

A certificate of publication of the notice, made by the newspaper publisher, and a copy of the notice shall be made a part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of said notice upon all persons, firms or corporations owning any interest in any property abutting upon any portion of said street, alley, public way or easement to be improved shall conclusively be deemed to have been given when such newspaper publication shall have been completed: Provided, That where any foreign railroad or other foreign corporation is the owner of property abutting upon any street, alley, public way or easement sought to be improved under the provisions hereof, notice shall be given to such railroad or other foreign corporation as prescribed by section one, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, before the adoption of any ordinance or resolution relating to, and providing for, such improvements.

Sec. 4. Sewers and Sewer Assessments.—The governing body is authorized and empowered to order and cause to be constructed, in said municipality, or part within and part outside of the limits of said municipality, public, common, lateral, branch, trunk and combined sewers or public sewer systems, or both, by contract or direct by the municipality, for the benefit of said municipality or any part thereof, and to purchase lands or easements therein or to condemn lands or easements therein in the manner provided by law for such sewers or sewer systems. When the governing body shall order and complete the construction of any such sewer or sewer system or any part thereof in said municipality, the property abutting on such sewer or abutting upon an avenue, street, alley, right of way or easement in which such sewer shall be constructed, or abutting on any avenue,
street, alley, right of way or easement, in which any such sewer or part of a sewer system is constructed and laid, may be charged with all or any part of the cost thereof, including the cost of such sewer or sewer system at and across intersections at avenues, streets, roads and alleys adjacent thereto.

A sewer system shall be deemed to include all the common sewers whether they be lateral, branch, trunk or combined sewers, which serve to drain a definite drainage area as specified in the order of the council directing the work to be done.

In case of a corner lot, frontage which may be assessed is to be measured along the longest dimension thereof abutting on each street, alley, right of way or easement in which such sewer is laid, but if sewered on both sides then such corner lot is to be charged only with the side first sewered unless more than two hundred feet in depth. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, rights of way or easements, one in the front and one in the rear of said lot, shall be assessed on both of said streets, alleys, rights of way or easements, if a sewer is constructed on both such streets, alleys, rights of way or easements. Where a corner lot has been assessed on either or both ends, it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end.

In case of corner lots where the cost of sewering along one dimension is not assessed against the owner thereof, and in the case of lots less than two hundred feet deep abutting at each end on a street, alley, right of way or easement in which a sewer is laid, the cost of sewering along the dimension or end not assessed against the property owner shall in every case be apportioned and assessed against the other property abutting on the streets, alleys, easements and public ways being improved, in the manner of the apportionment of the cost of improvements in intersections.

Sec. 5. What Total Cost to Include.—In ascertaining the total cost of the improvements in any project undertaken pursuant to this article, there shall be included the cost and expense of surveys, engineering and attorneys’
fees, the printing and publishing in relation thereto, and
the cost and expense of all labor, work, supervision,
inspection, equipment leased, and materials furnished
and used in completing said improvements.

Sec. 6. Apportionment and Assessment of Cost.—The
cost of the entire project, including the cost of all
improvements at and within intersections, shall be ap-
portioned to, and assessed against, and borne by the prop-
erties abutting upon the streets, public ways, alleys or
easements upon which the improvements involved in the
project shall have been made. Each lot or parcel of land
so abutting shall be assessed with that portion of the total
cost of the entire project which is represented by the
proportion which the abutting frontage in feet of such
lot or parcel bears to the total abutting frontages in feet
of all the lots or parcels of land abutting on the streets,
public ways, alleys or easements so improved: Provided,
however, That if the character of the improvements shall
be substantially different upon different streets, public
ways, easements or alleys, or portions thereof, the cost
may be equitably apportioned to the respective streets,
public ways, alleys, easements, or portions thereof, in
proportion to the character and cost of the improvements
respectively thereon; and the part of the cost so apor-
tioned to each respective street, public way, easement,
or alley, or portion thereof, shall be apportioned to and
assessed against the respective lots or parcels of land
abutting thereupon in the proportion as hereinabove pro-
vided: Provided further, That if any part of the street,
alley, easement or public way improved is used by a
railway then the cost of the portion of the improvements
between the rails and for two feet outside said rails shall
be assessed against and wholly borne by the owner of
the railway: Provided further, That if there be any land
or other property abutting on the portion of the street
or alley so improved which it has been determined by
the governing body of the municipality, and, shown in
the ordinance or resolution authorizing the improve-
ment, not to be specially benefited by the improvement,
or for other reasons would not be liable to assessment
for any of the cost of improvement, then the cost of the improvements abutting such part of said street or alley as is so determined to be nonassessable shall be apportioned among, assessed and borne by the remaining property abutting upon the portion of the street, alley, public way or easement improved in proportion to the frontage of such remaining abutting property as hereinabove provided: Provided further, That if such improvement include the construction or reconstruction of sidewalks on only one side of a street, alley, public way or easement, then the cost of such sidewalk shall be assessed only on the property abutting on that side where the sidewalks are so constructed: Provided, further, That in apportioning and assessing the cost of sewers or sewer systems the provisions of section four hereof shall be observed: Provided further, That if there be land or other property abutting the street, alley, easement or public way so improved which is owned by the United States of America, and, for that reason, not legally subject to assessment, then the municipality shall pay the proportionate part of the cost of the improvement which otherwise would be assessable against such federally owned land or property.

Sec. 7. Ordinance or Resolution Authorizing Improvement; Approval of Plans, Specifications and Estimates; Provisions for Payment and Cost and Assessment Certificates; Advertisement for Bids.—After hearing held pursuant to notice as provided in section three hereof the governing body of the municipality, by resolution or ordinance, may authorize such improvement and the assessing of the total cost or any part thereof on abutting property as herein provided. In the same or subsequent resolutions or ordinances, but before advertising for bids from contractors, the governing body of the municipality shall cause to be prepared plans, specifications and estimates of the cost of the proposed improvements under the supervision of the engineer for the municipality. Such plans, specifications and estimates shall show the proposed grade and sufficient data for any owner of abutting property to calculate approximately what proportionate
part of the estimated cost thereof might be assessed
against his property, and shall be filed with the clerk or
recorder and open to the inspection of interested persons
before advertisement for bids of contractors and before
the meeting at which such bids may be accepted or re-
jected. Before advertising for bids of contractors such
governing body of the municipality shall consider said
plans, specifications and estimates and may amend or
modify them, and before advertising for bids shall by
resolution or ordinance approve such plans, specifications
and estimates as so amended and modified. Such resolu-
tion or ordinance before advertisement for bids shall also
provide for advertisement for bids, for letting of contract
or contracts for the work to the lowest responsible bidder,
with right reserved to such governing body to reject any
and all bids and shall provide for supervision of such
work by the mayor, city manager, city engineer or other
person or committee designated by the governing body.
Such resolution or ordinance shall also provide for pay-
ment of the cost of the work when completed. The gov-
erning body shall provide in such resolution or ordinance
for the payment by abutting property owners of the cost
thereof in equal installments payable over a period of not
less than five years nor more than ten years from the
date of assessment, with interest at the rate of six per cent
per annum from the date of assessment, and in said reso-
lution or ordinance the governing body shall fix the num-er of installments in which the amounts assessed shall
be payable: Provided, That each of said assessments or
the installments thereof then remaining unpaid shall be
payable at any time after assessment without interest
after the date of payment: Provided further, That on
failure of the owner of the property assessed to pay any
installment as and when due, and such default continuing
for sixty days, then at the option of the holder of the
certificates evidencing such assessment, the entire bal-
ance due may be declared immediately due and payable
and the holder of the certificates may forthwith proceed
to enforce the collection thereof: And provided further,
That if the amounts to be assessed against abutting prop-
erty be less than two dollars for each abutting front foot of property, then said governing body is authorized to make the same payable in one lump sum or in installments, with interest, over a period of less than five years from the date of assessment.

Sec. 8. Report on Completion; Notice to Abutting Owners; Hearings; Assessment.—When the improvement of such street, alley, easement, or public way has been completed, the governing body shall cause the engineer, or other person charged by the governing body with the supervision of the work of improvement, to make a report showing the several frontages abutting thereon, and the total cost, and showing the respective amounts chargeable upon each lot or parcel of land assessed abutting thereon, and showing the proper amounts to be assessed against the respective abutting lots or parcels of land as provided herein, with a description of the abutting lots and lands as to ownership, frontage and location. The governing body of the municipality shall thereupon give notice to the owners of the property to be assessed that on or after a date named in said notice an assessment may be laid against the property so improved as embodied in said report. Said notice shall state that the owner or owners whose property is to be assessed, or other interested party, may on said date appear before the governing body to move the revision or correction of such proposed assessment. Such notice shall be by publication once a week for two successive weeks in a newspaper of general circulation in the county in which such municipality is located, and said notice shall show the total cost of the improvement, the several frontages abutting thereon and the respective amounts to be assessed against the abutting property, with a description of the respective abutting lots and lands as to ownership, frontage and location. On or after the date so advertised, the governing body may revise, amend, correct and verify the report and proceed by resolution or ordinance to lay the assessments as corrected and verified.

Sec. 9. Assessment Certificates; Issuance, Sale and
Negotiation; Recording Assessing Resolution or Ordinance.—Immediately on laying of the assessment against the abutting property, certificates shall be issued evidencing said assessments and each installment of principal and interest payable. Said certificates shall be payable to the bearer and be signed by the mayor and clerk or other equivalent officers of the municipality, and shall refer to the ordinance or resolution laying the assessments; shall show the amount and date of the assessment and describe the property against which the assessment is laid, describe the same as to ownership, amount, frontage and briefly as to location. Said certificates shall also show the dates on which principal and interest payments are due, and shall contain a provision that in event of default in the payment of any one of such installments, and such default continuing for a period of sixty days, than all unpaid installments shall become due and payable at the election of the certificate holder and the holder may proceed to collect all of the unpaid balances of installments, with interest until paid. Said certificates shall be issued to the contractor making the improvements in payment therefor, upon the contractor's reimbursing the municipality for those items of the cost and expense advanced by the municipality and mentioned in section five hereof. Said certificates shall be assignable by delivery of the certificates and be enforceable by the holder. The municipality issuing such certificates shall not be held as guarantor or in any way liable for the payment thereof. A notice of the lien of said assessment, referring to the assessing ordinance or resolution, and setting forth a list of the property assessed, described respectively as to amounts of assessment, frontage, location and ownership of the property, shall be certified by the clerk or recorder of the municipality to the clerk of the county court of the county wherein the improvement is located. The county clerk shall record the same in a proper trust deed book and index the same in the name of each owner of abutting property assessed.

Sec. 10. Liens; Payment, Suit for Enforcement; Enforcement; When Service May be Had by Publication.—The
property abutting the portion of the street, alley, easement or public way improved shall be subject to a lien, from the date of the ordinance or resolution laying the assessment, for the payment of the costs of the improvements assessed against said property. From the date of the assessments the holder of the assessment certificates shall be the holder of said leins and entitled to enforce the same in his own name or the name of the municipality to the extent of the amount, principal and interest, provided in said certificates, and against the said property, as to any assessment not paid as and when due. Said assessment shall be and constitute leins in the hands of the holders of said certificates upon the respective lots and lands assessed and shall have priority over all other liens except those for land taxes due the state, county, and municipality, and except the leins for pre-existing special assessments. Said assessments and interest thereon shall be paid by the owners of the property assessed as and when the installments are due. The holder of any certificate may enforce the lien thereof in any proper suit, and when default in the payment, as and when due, of any certificate of principal or interest or installment certificate shall occur and such default may have continued for more than sixty days, the holder may at his option declare the whole unpaid balance due and payable and by proper suit in equity enforce the lien thereof, upon process issued and served according to law upon the owner or owners of the land subject to said lien at the time such suit may be brought as shown by the records of the clerk of the county court in which said land is located. Service by publication upon such owner may be had if, upon affidavit filed with the clerk of the court where each suit is brought, it appears that the owner of such land is a nonresident of the State of West Virginia. Service by publication may also be had upon such owner upon affidavit filed in said clerk’s office that personal process issued to the sheriff of the county in which said land is located has been returned “not found” in said county and if said affidavit also states that the plaintiff in the suit does not know where the owner is resident.
Sec. 11. Assessment Against Property of Public, Charitable, Eleemosynary, Educational or Religious Institutions; Duty of Those in Charge to Cause Assessments to be Paid.—When any of the lots or lands abutting the portion of the street, alley, easement or public way improved consist of property owned or controlled by the state, county, municipality, board of education or other public body, or consist of property owned by, or used for, a church, or religious, charitable, educational or eleemosynary institution for purposes not subject to taxation, such property shall nevertheless be assessed with its proper proportion of the cost of said improvement, and it shall be the duty of those persons having charge of the fiscal affairs of such owner or the management of any such property or institution to make proper arrangements for the payment of, and cause to be paid, such assessments as and when due and payable.

Sec. 12. Place of Payment; Release.—Payments of any assessments or installment certificates may be made to the treasurer of the municipality or the holder of the assessment certificates. If payment is made to the treasurer he shall require all interest to be paid which is owed up to the time of payment, and notify the holder of the certificate, if informed of the holder's address, that he has received such payments, and make payment to the holder on presentation for cancellation of the certificate representing such payment. If payment is made to the holder of the certificate, the holder shall deliver to the payor certificates marked "paid" representing the payments made of principal and interest. On presentation to the treasurer for cancellation of all certificates of principal and interest for the whole assessment made against a specific piece of property assessed, the treasurer shall on request execute and deliver a release of the lien of such assessment.

Sec. 13. Re-assessment for Void, Irregular or Omitted Assessments.—In the case of the construction of any permanent improvements where an assessment has heretofore been laid or may hereafter be laid for the cost there-
of, which said assessment is or shall be void or voidable by reason of errors, irregularities or defects in the proceedings under which such improvement was made, or in case such assessment shall have been made against the wrong person or property, or shall have been omitted to be made in a case where the same was proper, it shall be the duty of the governing body within ten years after the completion of such improvement, or after any court shall have declared such assessment invalid, to cause notice to be given to any person against whom the cost of said improvement might properly be or have been assessed, of its intention to lay such assessment and fixing a time and place at which the owner may appear and show cause against the same. Said notice shall be served in the manner provided in this article in the giving of notices in assessment proceedings, or any other manner provided by law. At the time and place, under the notice aforesaid, or at any time thereafter, the governing body shall proceed to lay and levy an assessment for the cost of such improvement as would have been lawful under proper proceedings at the time said improvement was completed, unless the owner so notified shall show good cause against the same. The reassessment so laid shall be a lien upon the property liable therefor in the manner hereinabove provided from the date of the completion of the improvement, with interest therefrom, and proper assessment certificates may be issued, recordation had, and payment and the lien may be enforced in the same manner and upon the same terms as would have been proper at the time of the completion of the said improvement had the assessment therefor been then properly laid and levied.

Sec. 14. Liberal Construction of this Act.—This article shall be liberally construed to accomplish the purpose of providing reasonable, economical and expeditious means for municipalities to provide permanent improvements and assure to the contractors making such improvements, or persons directly or indirectly financing the same, security in the payment of the cost and expense of such im-
provements; and nothing in this article shall be construed
as imposing a time limit on the certificate holder for the
enforcement of his rights.

Sec. 15. Effect on Special and Home Rule Charter Pro-
visions.—The provisions of all existing municipal charters
and the rights, powers and duties of municipalities there-
under and under existing statutory and other laws in
respect of municipal and public improvements shall con-
tinue and remain in full force and effect, and nothing
herein contained is intended or shall be construed to re-
peal, supersede, suspend or modify any provision of any
special charter or home rule charter of any municipality
in this state.

Sec. 16. Separability.—If any provision or part of this
article is declared unconstitutional or invalid such decla-
rations shall in no way affect any other part hereof.

CHAPTER 90

(Senate Bill No. 271—By Mr. Eddy)

AN ACT to amend and reenact section one, article twelve, chap-
ter eight of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the acquisi-
tion and operation of municipal waterworks and extension
beyond corporate limits.

[Passed March 11, 1949: In effect ninety days from passage. Approved by the
Governor.]

Article 12. Waterworks.

Section

1. Acquisition and operation of municipal waterworks; extension
beyond corporate limits.

Be it enacted by the Legislature of West Virginia:

That section one, article twelve, chapter eight of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:
Section 1. *Acquisition and Operation of Municipal Waterworks; Extension Beyond Corporate Limits.*—Subject to, and in accordance with, the provisions of this article, any municipal corporation in the state of West Virginia may purchase, construct, extend, and operate, or lease to others for operation, a waterworks system, or construct and operate additions, betterments, and improvements to an existing waterworks system, within the corporate limits of said municipality and within the area included in a ten-mile extension of the corporate limits of said municipality, notwithstanding any provision or limitation to the contrary in any other general law or municipal charter.

CHAPTER 91

(House Bill No. 311—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section four, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twelve, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the authority of municipalities to issue revenue bonds for combined waterworks and sewerage systems.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]


Section 4. Ordinance.

Be it enacted by the Legislature of West Virginia:

That section four, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twelve, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted, to read as follows:

Section 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. Such ordinance may state that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

CHAPTER 92

(House Bill No. 294—By Mr. Doyle)

AN ACT to amend and reenact section four, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to municipal employees eligible for participation in employees' retirement and benefit fund.
Article 15. Employees' Retirement and Benefit Fund.

Section 4. Employees eligible for participation in fund.

Be it enacted by the Legislature of West Virginia:

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

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 who has complied with section six of this article 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: Provided further, That the municipality with the approval of the trustees of said fund may retire any member prior to the expiration of said five years.

CHAPTER 93
(House Bill No. 310—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, by amending and reenacting section nine thereof and by adding thereto four new sections, to be designated sections twenty-two-a, twenty-two-b, twenty-two-c and twenty-two-d, relating to the authority of municipalities to issue revenue bonds for sewage works and authorizing municipalities to accept loans and grants from the federal government in connection therewith.

[Sewage Works. of Municipal Corporations and Sanitary Districts.

Section
  9. Revenue bonds.
  22-a. Authority to accept federal grants or loans.
  22-b. Contracts for abatement of pollution.
  22-c. Refunding bonds.
  22-d. Subordination of bonds.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended by amending and reenacting section nine thereof and by adding thereto four new sections, to be designated sections twenty-two-a, twenty-two-b, twenty-two-c and twenty-two-d, to read as follows:
Section 9. Revenue Bonds.—Nothing in this act contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this act. Funds for the payment of the entire cost of the works, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for such payment, and said bonds shall not, in any respect, be a corporate indebtedness of such municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of such bonds shall be determined by ordinance or ordinances of the municipality.

Sec. 22-a. Authority to Accept Federal Grants or Loans.—The municipality is authorized to accept from any authorized agency of the state and federal government loans or grants for the planning, construction, acquisition, lease or other provision of the works and to enter into agreements with such agency respecting such loans or grants, and any funds made available or paid to the municipality in accordance with any such agreement for loans or grants shall be considered as and deemed to be funds provided under the authority of this act.

Sec. 22-b. Contracts for Abatement of Pollution.—When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including pay-
ment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment.

Sec. 22-c. Refunding Bonds.—Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this act pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds.

Sec. 22-d. Subordination of Bonds.—Notwithstanding any other provisions to the contrary in this act, any municipality authorizing the issuance of bonds under this act in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

CHAPTER 94

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

AN ACT to amend article two, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section eight, providing for the enforcement and collection of forfeitures due the state.
Article 2. Notices and Motions.

Section 8. Collection of forfeitures.

Be it enacted by the Legislature of West Virginia:

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

Section 8. Collection of Forfeitures.—Unless otherwise expressly provided by law, any forfeiture payable to the state under any provision of law may be enforced in the circuit court or other court of record having jurisdiction thereof, upon notice of motion for judgment brought in the name of the state. If such judgment shall be for the state it shall include the costs of the proceeding, and a docket fee of ten dollars for the prosecuting attorney’s services, payable into the county treasury, which docket fee shall be taxed as part of the costs.

CHAPTER 95

(House Bill No. 386—By Mr. Hudgins, by request)

AN ACT to amend and reenact section twenty-six, article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to rehearing after judgment or decree in cases involving service by publication or non-personal service.

(Passed March 12, 1949; in effect from passage. Approved by the Governor.)

Article 3. Writs, Process and Order of Publication.

Section 26. Rehearing in case of non-personal service.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, article three, 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 26. Rehearing in Case of Non-Personal Service.

—Any unknown party or other defendant who was not served with process in this state, and did not appear in the case before the date of such judgment, decree or order or the representative of such, may, within two years from that date, if he be not served with a copy of such judgment, decree or order more than eight months before the end of such two years, and if he was so served, then within eight months from the time of such service, file his petition to have the proceedings reheard in the manner and form provided by section forty-three, article seven, chapter thirty-eight of this code, and not otherwise; and all the provisions of that section are hereby made applicable to proceedings under this section: Provided, however, That nothing contained in that section or in this section shall be so construed as to authorize any court or judge to include, in the decree granted in a divorce suit, any prohibition against the remarriage of either party thereto, except such prohibition as may be authorized by the provisions of section twenty-two, article two, chapter forty-eight of this code.

CHAPTER 96
(Senate Bill No. 67—By Mr. Sinsel)

A BILL to amend article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section thirty-two, providing that the writ of process commencing any action at law or suit in equity shall be a part of the record, without oyer.

[Passed February 15, 1949: in effect ninety days from passage. Approved by the Governor.]

Article 3. Writs, Process and Order of Publication.

Section 32. Process part of record, without oyer.
Be it enacted by the Legislature of West Virginia:

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

Section 32. Process Part of Record, Without Oyer.—
2 The writ or process commencing any action at law or suit in equity shall be a part of the record, without oyer thereof.

CHAPTER 97
(House Bill No. 134—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article two-a, and by amending article three by adding thereto a new section, to be designated section four-a, and by amending and reenacting sections three to eight, inclusive, of said article three; by amending and reenacting sections one, three, four and five, article eleven; and by amending and reenacting sections one to five, inclusive, and sections thirteen and fifteen, article sixteen; relating to the creation, organization, powers and duties of a medical licensing board for the licensing of physicians and surgeons, chiropodists, and chiropractors; providing for the licensing, revocation and suspension of license, and biennial registration of physicians and surgeons, and for the licensing and the revocation and suspension of license of chiropodists and chiropractors, all relating to the licensure by the medical licensing board of physicians and surgeons, chiropodists and chiropractors.

[Passed February 21, 1949; in effect July 1, 1949. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article two-a; by amending article three by adding thereto a new section, to be designated section four-a; and by amending and reenacting sections three to eight, inclusive, of said article three; by amending and reenacting sections one, three, four and five, article eleven; and by amending and reenacting sections one to five, inclusive, and sections thirteen and fifteen, article sixteen; all to read as follows:

**Article 2-a. Medical Licensing Board**

Section 1. Medical Licensing Board; Creation and Membership.—There is hereby created a medical licensing board to be known as “The Medical Licensing Board of West Virginia”.

The medical licensing board shall consist of eleven members. One of such members shall be the state director of health ex officio whose term as such member shall continue for the period that he holds office as state director of health. The other ten members shall be appointed by the governor with the advice and consent of the senate. The term of all members, except the state director of health, shall be five years, except that the persons originally appointed shall be designated to serve, two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Upon the expiration of such initial appointments, the term of each new appointee shall be five years, 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 appointed only for the remainder of such term. Each member shall serve until the appointment and qualifica-
tion of his successor. Before appointing any member, the governor shall request the state professional society of the profession practiced by any proposed appointee to furnish to the governor a full and complete report concerning the qualifications and suitability of the proposed appointee.

Of the members to be appointed by the governor, six shall be physicians or surgeons holding the degree of doctor of medicine, two shall be chiropodists, and two shall be chiropractors. All persons appointed to membership on the board shall be citizens of this state and shall have been citizens and residents of the state for at least five years prior to the date of their appointment. Each such person shall have been duly licensed to practice his profession in this state on the date of his appointment and shall have been so licensed and have been actively practicing his profession for at least five years immediately preceding the date of such appointment.

The chiropodists who are members of the medical licensing board, shall participate in its proceedings and vote as members of the board only on matters pertaining to the licensure, examination, or suspension, revocation, or reinstatement of the licenses of chiropodists.

The chiropractors who are members of the medical licensing board, shall participate in its proceedings and vote as members of the board only on matters pertaining to the licensure, examination, or suspension, revocation or reinstatement of the licenses of chiropractors.

No more than three doctors of medicine, one chiropractor and one chiropodist appointed by the governor as members of the board shall belong to the same political party. No person shall be eligible for membership on the board who is a member of any political party executive committee, or, with the exception of the state director of health, who holds any 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 state board of health.

All members shall be eligible for reappointment.
In making appointments to the board, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the state.

No member may be removed from office except for official misconduct, incompetence, neglect of duty or gross immorality: Provided, however, That the expiration or revocation of the professional license of a member of the board shall be cause for his removal: Provided further, That the state director of health shall cease to be a member of the medical licensing board upon the expiration or termination of his appointment as state director of health.

Sec. 2. Medical Licensing Board; Powers and Duties.—The medical licensing board of West Virginia shall assume, carry on, and succeed, to all the duties, rights, powers, obligations and liabilities heretofore belonging to, exercised by, or assumed by the public health council, with regard to the licensure of physicians and surgeons, chiropractors and chiropodists.

The medical licensing board shall examine all qualified applicants for license to practice medicine and surgery, chiropody and chiropractic, and it shall license all such applicants who are qualified under applicable statutes and who pass any examination that may be required by statute or by any legally adopted rule or regulation.

The said board shall have the power to make such examination of all applicants appearing before it for any type of license as may be necessary to determine that the applicant is qualified. The said board shall also have the power to revoke or suspend any license issued by it, for cause, after having given the person whose license is sought to be revoked or suspended, an opportunity to be heard in the manner provided by section eight, article one, chapter thirty of this code. It shall have the power to reinstate any license revoked or suspended by it.

The said board is authorized and empowered to hold and conduct hearings and investigations on the issuance, suspension, revocation, or reinstatement of licenses.
The said board shall have the power to hire, fix the compensation of, and discharge such employees as are necessary for the performance of the powers and duties vested in the said board by law.

Sec. 3. Medical Licensing Board; Organization and Officers.—The board 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 act for and in the name of the board in all matters within the lawful powers of the board and duly authorized by a majority of its members.

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

Sec. 4. State Director of Health to Act as Secretary of Medical Licensing Board.—The state director of health, in addition to being a member of the medical licensing board, shall act as its secretary and shall be in charge of its offices and responsible to the board for the maintenance of the said offices, and the preparation of application forms, licenses, reports and all other papers or documents which may be required by the board in the performance of its duties. He shall, together with the chairman of the board, sign all licenses, reports and other documents.

Article 3. Physicians and Surgeons

Section 3. Examination by medical licensing board.

Section 4. Who permitted to practice medicine and surgery in this state; licensing of licensed practitioners from other states; permits to practice in prescribed areas.

Section 4-a. Biennial registration of physicians and surgeons.

Section 5. Examinations; certificates; adherents of particular schools or theories of medicine.

Section 6. Refusal to issue, suspension or revocation of license.

Section 7. Fees.

Section 8. Division of fees by physicians or surgeons: penalties; revocation of certificate.

Section 3. Examination by Medical Licensing Board.—The medical licensing board of West Virginia shall examine all qualified applicants for license to practice medicine and surgery in this state, and issue certificates
of license to all applicants who are legally entitled to receive the same; and said certificates shall be signed by the chairman of the said board and by the director of health as secretary thereof.

Sec. 4. Who Permitted to Practice Medicine and Surgery in This State; Licensing of Licensed Practitioners From Other States; Permits to Practice in Prescribed Areas.—The following persons and no others shall hereafter be permitted to practice medicine and surgery in this state: (a) All such persons as shall be legally entitled to practice medicine and surgery in this state at the time of the adoption of this act; (b) all such persons as shall be graduates of class “A” medical schools, as classified by the Council on Medical Education and Hospitals of the American Medical Association, the American Association of Medical Colleges, the American Institute of Homeopathy and the National Eclectic Medical Association, and then only from such schools, when so classified, as require, as a condition to entrance upon the study of medicine, at least two years of academic work of collegiate grade in a standard college of arts and sciences of equal rank with the college of arts and sciences in the West Virginia University, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided: Provided, however, That the said board, or a majority of them, may accept in lieu of an examination, the certificate of the national board of medical examiners, or the certificate of license to practice medicine and surgery legally granted by the state board of registration or examination or licensing board of another state, territory or any foreign country, whose standard of qualification for the practice of medicine and surgery is equivalent to that of this state, and grant to such applicant a certificate of license to practice medicine and surgery in this state, provided such state, territory or foreign country accords like privileges to licentiates of this state: Provided further, That whenever in the judgment of the medical licensing board a condition exists in which medical service may be required, the said board is authorized to grant permits for
the practice of medicine to qualified physicians in prescribed areas, and such permits shall be subject to revocation when the agreement, under which they were issued, has been violated.

Sec. 4-a. Biennial Registration of Physicians and Surgeons.—Every person who, on or before the thirty-first day of August, one thousand nine hundred forty-nine, is licensed as a physician or surgeon to practice medicine and surgery in this state, shall, on or before the said thirty-first day of August, one thousand nine hundred forty-nine, make application to the medical licensing board for registration, and shall be registered by the said board, as the holder of such license, which registration shall be for the period ending on the thirtieth day of June, one thousand nine hundred fifty-one. On or before the said thirtieth day of June, one thousand nine hundred fifty-one, and biennially thereafter, on or before the thirtieth day of June of each biennial period, every person licensed as a physician or surgeon in this state, shall apply to the said board for registration, or a renewal of registration, as such license holder: Provided, That no registration shall be required of any holder of a certificate of licensure for the biennial period, or any portion thereof, during which such certificate is issued.

Each applicant for registration or renewal thereof shall remit to the board, with his application, a fee of two dollars.

The failure of any person to comply with the provisions of this section shall operate automatically, and without further proceedings, to cancel the certificate of such person, and the license issued thereunder. Continued practice by any such person after such cancellation of his certificate and license shall constitute practicing without a license, and any person so practicing shall be subject to all of the penalties provided by law for practicing without a license.

Any certificate and license cancelled pursuant to the provisions of this section, and not for any other reason, shall be reinstated by the said board upon submission to it of an application for registration by the person whose
certificate has been cancelled, together with current and delinquent fees, and ten dollars reinstatement fee.

Sec. 5. Examinations; Certificates; Adherents of Particular Schools or Theories of Medicine.—The medical licensing board shall, at such times as a majority of them deem proper, hold examinations for the licensing of applicants for license to practice medicine and surgery in this state. No fewer than two examinations shall be held during the year, at such place in the state as may be determined by the medical licensing board. At such examination written and oral questions shall be submitted to the applicants, covering all the essential branches of the sciences of medicine and surgery, and the examination shall be a thorough and decisive test of the knowledge and ability of the applicant. The chairman and secretary of the board shall issue certificates to all who successfully pass the said examination and to all whose certificates said board, or a majority of them, shall accept in lieu of an examination, as hereinbefore provided. Such certificates shall be deemed licenses to practice medicine and surgery in all their branches in this state. The medical licensing board shall give reasonable notice of the time and place of holding such examinations in at least three newspapers of general circulation in this state, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the board. No applicant for license to practice medicine and surgery in this state shall be rejected because of his adherence to any particular school or theory of medicine. The medical licensing board may call to its assistance in the examination of any applicant who professes the homeopathic or eclectic school of medicine, a homeopathic or eclectic physician entitled to practice medicine in this state under this article, and such homeopathic or eclectic physician so called to the assistance of the board shall be allowed the same per diem and actual expenses incurred as are allowed the regular members of the said board.

Sec. 6. Refusal to Issue, Suspension or Revocation of License.—The medical licensing board may refuse to grant a certificate of license to a person guilty of felony
or gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may suspend or revoke a certificate for like cause, or for malpractice, or for fraud in procuring the certificate; but no such refusal, suspension or revocation shall be ordered by reason of the individual belonging to or practicing in any particular school or system of medicine.

Sec. 7. Fees.—The medical licensing board shall be entitled to charge and collect the following fees, in addition to those provided in article one of this chapter: For granting to a licensed physician or surgeon from another state, territory or foreign country, a license to practice medicine in this state, under the provisions of section four of this article, one hundred dollars; for a reciprocal indorsement, ten dollars.

Sec. 8. Division of Fees by Physicians or Surgeons; Penalties; Revocation of Certificate.—It shall be unlawful for any physician or surgeon in this state, directly or indirectly, to divide, or agree to divide, any fee or compensation of any sort whatsoever, charged for a surgical operation or for medical services, with any other physician, surgeon or other person who brings, sends or recommends a patient to such surgeon or physician for treatment, without the express knowledge and consent, previously had, of the person paying such fee or compensation, or against whom the same may be charged. It shall be unlawful for any physician, surgeon or other person residing in this state to accept any fee or other compensation from any other surgeon, physician or other person not residing in this state for taking, sending or recommending a patient for treatment to such nonresident physician, surgeon or other person. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars for each offense, and in the discretion of the court, may be imprisoned in the county jail not to exceed twelve months in addition to said fine. If any person shall be convicted of a second offense under the provisions of this section, the medical licensing board shall revoke
26 the certificate licensing such person to practice medicine
27 and surgery in this state.

Article 11. Chiropodists

Section
1. Chiropody; license required.
3. Qualifications of applicant for license.
4. Examination for license; issuance of license.
5. Offenses; penalties.

Section 1. Chiropody; License Required.—It shall be
unlawful for any person to practice or offer to practice
in this state the branch of medicine known as chiropody,
as hereinafter defined, unless duly licensed so to do by
the medical licensing board of this state, after examina-
tion conducted by such board or a committee thereof,
under rules and regulations prepared and promulgated
by it, except as hereinafter provided: Provided, however,
That the provisions of this section shall not apply to any
person legally entitled to practice chiropody in this state
at the time of the adoption of this act.

Sec. 3. Qualifications of Applicant for License.—An ap-
plicant for license shall furnish to the medical licensing
board satisfactory proof that he is: (a) Twenty-one years
of age or over; (b) of good moral character; (c) a grad-
uate of a school of chiropody registered by the state
department of education as being of proper standard, or
that he has been in the practice of chiropody in some
other state for at least five years, and of good standing
in such state, in which said state an examination is re-
quired by law equal to the requirements of this state,
and that said applicant has taken the examination in said
state and received a license therein; (d) possessed of a
minimum education equivalent to two years' attendance
at a high school recognized by the state department of
education as being of proper standard; (e) a bona fide
resident of the state of West Virginia at the time of appli-
cation.

Sec. 4. Examination for License; Issuance of License.—
The medical licensing board shall conduct examinations
for license to practice chiropody at the times and places
designated by it for conducting examinations for license
to practice medicine. Examinations shall be in English, and in writing, and shall be of a scientific and practical character. They shall cover the subjects of anatomy and physiology of the foot, chemistry, materia medica, therapeutics and minor surgery, including bandaging. The medical licensing board shall issue licenses to practice chiropody to successful applicants therefor.

Sec. 5. Offenses; Penalties.—Whoever, not being lawfully authorized to practice chiropody within the state of West Virginia, holds himself out as a practitioner of chiropody, or advertises himself as such, or whoever practices chiropody under a false or assumed name, or under a name other than that under which he has license to practice chiropody as aforesaid, or whoever impersonates another practitioner of a like or a different name, or whoever lends his name or his professional connection with anyone who has been convicted of any offense, as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than two hundred dollars, or confined in the county jail not less than one nor more than four months, or both, for each and every offense, and in addition, the medical licensing board may suspend or revoke his license for an indefinite period, but for not less than six months. A person so convicted shall not be entitled to any fee for services rendered, and, if a fee has been paid, the patient or guardian or heir may recover the same as debts of like amount are now recovered by law.

Article 16. Chiropractors

Section 1. Chiropractic; License Required.—It shall be unlawful for any person to practice, or offer to practice, in this state chiropractic, as hereinafter defined, unless duly
licensed to do so by the medical licensing board of this state, after examination conducted by such board or a committee thereof, under rules and regulations prepared and promulgated by it, except as hereinafter provided: Provided, however, That the provisions of this section shall not apply to any person legally entitled to practice chiropractic in this state at the time of the adoption of this act.

Sec. 2. Application for License; Qualifications of Applicant.—Any person wishing to practice chiropractic in this state shall apply to the secretary of the medical licensing board for a license so to practice. Each applicant shall be a graduate of a chiropractic school or college recognized by the American Chiropractic Association, or other recognized national chiropractic society, which teaches a resident course of at least three calendar years of eight months each and requires active attendance upon the same, and shall be a graduate of an accredited high school giving a four-year course or have an education equivalent to the same, and shall have attended for at least two years an academic college equal in standing to the West Virginia university, as preliminary education.

Each application shall be accompanied by a certificate from the school or college attended by the applicant, which certificate shall set forth in full the training of said applicant, showing his studies and the length of his clinical practice. The medical licensing board shall require of all applicants satisfactory evidence of good moral character.

Sec. 3. Examination by Medical and Chiropractic Members of Medical Licensing Board.—Applicants to practice chiropractic in this state shall be examined by the medical physicians who are members of the state medical licensing board in the following subjects: Anatomy, histology, physiology, pathology, symptomatology, physical diagnosis, hygiene, sanitation, chemistry and bacteriology. The chiropractic members of the medical licensing board shall give an examination in the following subjects: Chiropractic philosophy, chiropractic analysis, nerve tracing, palpation and the art of adjusting.
All applicants shall be required to secure an average grade of eighty per cent in all subjects: sixty-five per cent shall be the minimum grade in any subject.

Sec. 4. Licensing Chiropractors From Other States.—Persons licensed to practice chiropractic under the laws of any other state having requirements equivalent to those of this article, and extending like privileges to practitioners of this state, may in the discretion of the medical licensing board, be licensed to practice in this state without examination.

Sec. 5. Refusal to Issue, Suspension or Revocation of License.—The medical licensing board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state upon any of the following grounds, to-wit: The employment of fraud or deception in applying for a license or in passing the examination provided for in this article; the practice of chiropractic under a false or an assumed name or the impersonation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; or habitual intemperance in the use of intoxicating liquors or narcotic drugs. In addition to the above stated grounds, the medical licensing board shall revoke or refuse to grant a license to anyone practicing, under the guise of chiropractic, any health science or mode of healing other than chiropractic as defined in this article.

Sec. 13. Unlawful to Practice Chiropractic Without License.—No person shall practice chiropractic in this state without first having obtained a license so to do, or after revocation and before renewal, or during suspension, of such license as provided in this article.

Sec. 15. Duties of Prosecuting Attorneys and Secretary of Medical Licensing Board.—It shall be the duty of the several prosecuting attorneys of this state to enforce the provisions of this article, and it shall be the duty of the secretary of the medical licensing board, under the direction of said board, to aid such attorneys in such enforcement.
AN ACT to amend and reenact section nine, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, enumerating certain offenses under the law governing the practice of optometry, prescribing penalties therefor and conferring concurrent jurisdiction in such cases upon justices of the peace.

[Passed February 21, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 8. Optometrists.

Section 9. Offenses; penalties; jurisdiction of justices.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Offenses; Penalties; Jurisdiction of Justices.

2. Each of the following shall constitute a misdemeanor punishable, upon conviction, for the first offense, by a fine of not less than one hundred nor more than two hundred dollars, and, upon conviction for a second or subsequent offense, by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment, at the discretion of the court: The practice of, or an attempt to practice, optometry, without a certificate of registration as a registered optometrist, except as hereinbefore provided; permitting any person in one's employ, supervision or control, to practice optometry, unless such person has a certificate of registration as a registered optometrist when such certificate is required by this article; the obtaining of, or an attempt to obtain, a certificate of registration, or practice in the profession, or money, or any other thing of value, by fraudulent mis-
representation; the making of any willfully false oath or affirmation, whenever an oath or affirmation is required by this article; the violation of the provisions of section six of this article.

Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of this article.

CHAPTER 99

(Senate Bill No. 193—By Mr. Wylie)

AN ACT providing for the examination and licensing for the practice of medicine and surgery in this state of persons otherwise entitled thereto except for the fact that the medical school from which such persons graduated was not at the time of graduation a class "A" medical school but which school has subsequently been so classified.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the Governor.]

Section 1. Examination and licensing for practice of medicine and surgery, persons otherwise entitled thereto except for the fact that the medical school from which such persons graduated was not a class A medical school.

WHEREAS, There is great need in West Virginia for more well trained physicians and surgeons; and

WHEREAS, Many West Virginians through lack of facilities in their native state have been forced to seek medical education and training elsewhere; and

WHEREAS, Due to certain technical requirements in effect at the time of their graduation these persons cannot be admitted to practice their profession in their native state; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Examination and Licensing for Practice of Medicine and Surgery, Persons Otherwise Entitled There-
to Except for the Fact that the Medical School from
Which Such Persons Graduated Was Not a Class A Med-
ical School.—Any citizen of the state of West Virginia
who shall have graduated from a medical school on or
after January first, one thousand nine hundred forty-four,
and who has met all the requirements of law pertaining
to education and training entitling such person to an
examination by and subsequent license from the appro-
priate state board or agency for the practice of medicine
and surgery in this state, except that such medical school
was not at the time of such graduation a class “A” medi-
cal school as defined by statute in such case, shall never-
theless, be entitled to take such examination and upon
passing be issued such license, in those cases wherein
such medical school has, prior to the thirty-first day of
December, one thousand nine hundred forty-eight, been
classified as such class “A” medical school.

All acts or parts of acts inconsistent herewith are here-
by repealed.

CHAPTER 100
(Senate Bill No. 19—By Mr. Bowers)

A BILL to amend and reenact section seven, article six, chapter
nine of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, relating to general relief
grants.

[Passed February 15, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 6. General Relief.
Section
7. Disposition by county council.

Be it enacted by the Legislature of West Virginia:

That section seven, article six, 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 7. Disposition by County Council.—The county council shall consider the record and the determination of the county director. The council shall either grant or refuse relief. If it grants relief, it shall specify the type and amount of relief to be given. No recipient of a general relief grant who obtains compensable employment shall, by reason of such employment, suffer a reduction in the amount of such grant, unless his earnings from the employment total more than an amount equal to the grant. If his earnings total more than such grant, the amount of the grant may be reasonably reduced, but not to the point of discouraging the recipient thereof from seeking and keeping compensable employment.

CHAPTER 101
(House Bill No. 133—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter sixteen of the code of West Virginia one thousand nine hundred thirty-one, as amended, by repealing article one and enacting in lieu thereof a new article one, and by amending and reenacting sections three and four, article two; sections one, two, five, six, and twelve, article three; sections two and seventeen, article five; section one, article five-a; section nine, article five-b, and section three, article seven; establishing the organization of the state department of health, creating a state board of health, establishing the membership, organization, powers and duties of said board, providing for the employment by the said board, and establishing the qualifications, powers, and duties of a director of health and other employees, authorizing joint local boards of health, and vesting in the state board of health the power and duty to administer the public health laws of the state, all relating to public health.

[Passed February 21, 1949; in effect July 1, 1949. Approved by the Governor.]

Article
2. Local Health Officers.
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 repealing article one and enacting in lieu thereof a new article one, and by amending and reenacting sections three and four of article two; sections one, two, five, six, and twelve, article three; sections two and seventeen, article five; section one, article five-a; section nine, article five-b, and section three, article seven; all to read as follows:


Section

1. Composition of department.
2. Board of health; membership.
3. Board of health; powers and duties.
4. Board of health; organization, reports, and offices.
5. Director of health; appointment, qualifications, compensation.
6. Director of health; duties and powers.
7. Divisions of department; directors of divisions.
8. Administrative and other employees of the department of health.
9. Supervision over local sanitation.
10. Supervision of state health institutions.
11. State laboratory; branches.
13. Disposition of moneys received by state director of health; report to auditor.
14. State department of health authorized to cooperate with federal government in hospital construction program.
15. Federal aid.
16. Investigations, hearings, power to subpoena witness; self crimination.
17. State board of health, orders, notices and opportunity for hearing.
19. Meaning of words “public health council” and “commissioner of health”.
20. Penalties for violating of provisions of this article.

Section 1. Composition of Department.—There shall be a state department of health, which shall consist of a board of health, a director of health; directors of divisions, and other employees as hereinafter provided.

Sec. 2. Board of Health; Membership.—There shall be a state board of health, to be known as the West Virginia
board of health, which shall be a corporation and as such
may contract and be contracted with, plead and be im-
pleaded, sue and be sued, and have and use a common
seal. The state board of health shall consist of nine mem-
bers, who shall be appointed by the governor, by and with
the advice and consent of the senate. Three members of
the board shall be physicians or surgeons holding the
degree of doctor of medicine, one shall be a dentist, one
shall be an osteopathic physician, one shall be a pharma-
cist, one shall be chosen as the representative of the hos-
pitals licensed in the state of West Virginia and two shall
be representative citizens, neither of which said repre-
sentative citizens shall be an employee of, or connected
in any way with, any hospital licensed in this state, and
neither of whom shall be a member of any of the pro-
fessions named above.

All persons appointed to membership on the state board
of health shall be citizens of this state and shall have been
such citizens and residents of the state for at least five
years prior to the date of their appointment. Every pro-
fessional member of the said board shall be duly licensed
to practice his profession in this state on the date of his
appointment and shall have been so licensed and have
been actively practicing his profession for at least five
years immediately preceding the date of such appoint-
ment. Before appointing any professional member, the
governor shall request the state professional society of
the profession practiced by any proposed appointee to
furnish to the governor a full and complete report con-
cerning the qualifications and suitability of the proposed
appointee. All members of the board shall be appointed
for terms of nine years each, except that the persons
originally appointed, shall be appointed to serve for
designated terms beginning on the first day of July, one
thousand nine hundred forty-nine, and continuing for one,
two, three, four, five, six, seven, eight, and nine years
respectively. Upon the expiration of such initial appoint-
ments the term of each new appointee shall be nine years.
Any vacancy on the board shall be filled by the governor
by appointment for the unexpired term.

No more than five of the members of the board shall
belong to the same political party. Not less than one nor
more than two members shall be appointed from the same
congressional district. No person shall be eligible for
appointment to membership on the state board who is
a member of any political party executive committee, or
who holds any 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. All members
shall be eligible for reappointment.

No member may be removed from office by the gov-
ernor except for official misconduct, incompetence, neg-
lect of duty or gross immorality and then only in the
manner prescribed by law for the removal by the gov-
ernor of state elective officers: Provided, however, That
the expiration or revocation of the professional license
of any professional member of the board shall be cause
for his removal.

No member shall receive any compensation for his
services but each shall be reimbursed for actual and
necessary travel and other expenses incurred by him in
the performance of his duties as a member of the board.

Sec. 3. Board of Health; Powers and Duties.—The
state board of health shall assume, carry on, and succeed
to, all the duties, rights, powers, obligations and liabili-
ties heretofore belonging to, exercised by, or assumed by
the state department of health, the public health council,
and the commissioner of health pursuant to statutory
authority heretofore existing and as changed or modified
by the provisions of this article: Provided, however,
That the said board shall not succeed to, or exercise any
of the powers heretofore exercised by the public health
council with regard to the licensure of physicians, sur-
geons, chiropodists, and chiropractors.

The state board of health shall have the power to ac-
quire by condemnation or otherwise land or buildings
and to hold title thereto, for the use and benefit of any
state institution subject to its control and management,
and, by and with the consent of the governor, to sell, ex-
change or otherwise convey any property title to which
is acquired or held by it. Any condemnation proceed-
The state board shall have supervision and control of the business, fiscal, administrative and medical affairs of the department of health and shall have advisory medical supervision of all of the state institutions set forth in section ten of this article. It shall have authority to employ, fix the compensation of, and discharge all persons necessary for the proper execution and enforcement of the laws of this state pertaining to public health, and the efficient and proper discharge of the duties imposed upon, and execution of the powers vested in, the said board by law. It may place any or all of its employees under the merit system, provided that the same may be done in conformity with the applicable laws of this state and of the federal government.

The state board shall have the authority to enforce all of the laws of this state concerning the public health, and shall take care to protect the life and health of all of the inhabitants of the state, and to that end shall make or cause to be made sanitary investigations and inquiries respecting the cause of disease, especially of epidemics and endemic conditions, and the means of prevention, suppression or control of such conditions; the source of mortality, and the effects of localities, employment, habits and circumstances of life on the public health. It shall gather information in respect to the said and kindred subjects for diffusion among the people of the state. It shall inspect and examine food, drink and drugs offered for sale, or for public consumption, in such manner as it shall deem necessary to protect the public health, and shall report all violations of the laws of this state and the regulations adopted thereunder relating to pure food, drink and drugs to the prosecuting attorney of the county in which such violations occur, and lay before such prosecuting attorney the evidence in its knowledge of such violations. The board or its duly designated employees may make complaint or cause proceedings to be instituted against any person or persons, or corporation, for the violation of any of the health laws of this state. Such action may be taken by the
board without the sanction of the prosecuting attorney
of the county in which proceedings are instituted, if said
officer fail or refuse to discharge his duty. In no such
case shall the board or any person acting under its di-
rection be required to give security for costs.

The state board of health shall provide for the ef-
ficient and accurate registration of births and deaths, and
the recordation of cases of such diseases as may be re-
quired to be recorded by statute or regulation. It shall
have the power to inspect, and to make and enforce, for
the protection of the public health, reasonable rules and
regulations to control the sanitary condition of all institu-
tions and schools, whether public or private, public
conveyances, dairies, creameries, slaughter houses, work
shops, factories, labor camps, places of entertainment,
hotels, tourist camps, all other places open to the general
public and inviting public patronage or public assem-
bly, or tendering to the public any item for human con-
sumption, and places where offensive trades or industries
are conducted. It shall have the power to make and en-
force reasonable rules and regulations to control occupa-
tional and industrial health hazards, and to make in-
spections and conduct hearings respecting the cause and
control of such hazards. It shall have the power to in-
spect and to make reasonable rules and regulations to
control the sanitary condition of streams, sources of
water supply, and sewerage facilities.

The state board is empowered and directed to en-
courage and foster the cooperation of all physicians, vol-
unteer health organizations and other interested persons
and organizations in the improvement of public health,
and to disseminate information to the general public in
all matters pertaining to public health.

The state board shall promulgate and enforce regula-
tions governing the design of all public water systems,
plumbing systems, sewerage systems and sewage treat-
ment plants, swimming pools and excreta disposal meth-
ods in this state, whether publicly or privately owned;
the operation of all public chlorination and filtration
plants, and the qualifications of operators, chemists, bac-
teriologists and superintendents of filtration, or others,
who are in actual charge of the plant operation of all
public water systems, sewage treatment plants and swim-
ming pools.

The state board shall have the power and authority to
make and promulgate, and from time to time amend such
rules and regulations as it may deem necessary and ad-
visable to properly put into effect the public health laws
of this state, and for the administration of the powers
granted to it by this article.

Every general regulation adopted by the state board
of health shall state the day on which it takes effect. A
copy of any such regulation, duly signed by the director
of health, shall be filed in the office of the secretary of
state, and a copy thereof shall be sent by the director of
health to each health officer within the state and shall be
published in such manner as the board may determine:
Provided, however, That nothing herein contained shall
be construed to give the state department of health or
the state board of health power to regulate or interfere
with the drainage from any mine or manufacturing plant
unless the drainage from said mine or manufacturing
plant shall contain disease producing bacteria in suf-
ficient numbers to endanger health, or organic or in-
onic wastes of such nature as to cause the water in-
tended for public or private water supplies to be unfit
for use.

Sec. 4. Board of Health; Organization, Reports, and
Offices.—The state board of health shall adopt a seal. It
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 board in all matters within its lawful powers and
duly authorized by a majority of its members.

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

The board 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 board'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 board, 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 board and of the department of
health shall conform to the fiscal year of the state.

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

Sec. 5. Director of Health; Appointment, Qualifications,
Compensation.—A state director of health shall be ap-
pointed by the state board of health, to serve for an in-
definite term at the pleasure of the board. The director
of health so appointed shall be a physician holding the
degree of doctor of medicine, a graduate of a reputable
medical college, and eligible for licensure as a physician
in this state, and shall have had at least five years ex-
perience in the practice of medicine. He shall be skilled
in sanitary science and experienced in public health ad-
ministration. He shall devote his entire time to the duties
of his office as required and prescribed by this article, and
shall not be actively engaged or employed in any other
business, vocation or employment. He shall receive such
compensation as the board may determine. He shall be
reimbursed for all necessary traveling and other expenses
incurred by him in the discharge of his official duties.

Sec. 6. Director of Health; Duties and Powers.—The
director of health shall be the executive officer of the state
board of health. Under its supervision, he shall admin-
ister the provisions of this article, all other laws of this
state relating to public health and within the authority of
the department of health, and the rules, regulations and
orders established, promulgated or issued by the board
of health. The director shall attend but not vote at all meetings of the state board of health. He shall act as secretary of the board and as such shall be in charge of its offices and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to public health. At the direction of the board of health, he shall, together with the chairman of the board, execute all contracts entered into by the board which are legally authorized. He shall be the administrative head and chief executive officer of the state department of health and as such shall organize and supervise all of the activities of the department of health.

Sec. 7. Divisions of Department; Directors of Divisions. —There shall be included in the state department of health the following divisions:
Division of communicable diseases,
Division of cancer control,
Division of vital statistics,
Division of sanitary engineering,
Division of child hygiene,
Division of barbers and beauticians.

The state board of health shall appoint, with the advice of the director of health, a director for each division, and shall prescribe, with the advice of the director of health, the qualifications of each such division director, the duties pertaining to each division, and the arrangement of the subdivisions, if any, thereof.

The state board shall have authority to establish such additional administrative sections or groupings within the department of health as it may consider necessary or advisable for the efficient administration of its powers and duties.

Sec. 8. Administrative and Other Employees of the Department of Health.—The state board of health may at such time or times as it may deem necessary, employ, with the advice of the director of health, such administrative employees, inspectors, examiners, or other persons as may be necessary to properly carry out the provisions of the public health laws of this state. Such inspectors,
examiners and other employees as may be duly designated by the board of health shall act as its representatives and, under the direction of the director of health, shall enforce the provisions of the public health laws and all duly promulgated rules and regulations of the board of health, and in the discharge of official duties, shall have the right of entry into any institution or school, whether public or private, public conveyance, dairy, creamery, slaughter house, work shop, factory, labor camp, place of entertainment, hotel, tourist camp, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption, and places where offensive trades or industries are conducted.

Any person interfering with or attempting to interfere with any inspector, examiner or other duly authorized employee of the board of health in the discharge of his duties under this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars, nor more than one hundred dollars.

Sec. 9. Supervision Over Local Sanitation.—No county or municipal government, public or private institution, firm, corporation or company, person or persons, shall install or establish any system or method of drainage, water supply, excreta disposal or system of garbage and refuse disposal insofar as each affects the public health in this state unless the same is installed or established in accordance with plans, specifications, and instructions issued by the state department of health or which have been approved in writing by the director of health or his authorized representative.

Whenever the director of health or his authorized representative finds upon investigation that any system or method of drainage, water supply, excreta disposal or garbage or refuse disposal, whether publicly or privately owned, is such as to endanger the public health or is creating a nuisance that is detrimental to health, the director of health or his duly authorized representative shall be empowered to issue an order requiring the owner of such system or method to make such alterations, within a rea-
sonable time, as may be necessary to correct the improper
condition.

The personnel of the state department of health shall
be at the disposal of any county, municipality, firm, cor-
poration, company, person or persons to consult and ad-
vise with them as to the most appropriate design, method
of operation or alteration of the systems or methods above
mentioned.

Any county, municipality, public or private institution,
firm, corporation, company, person or persons who shall
violate any provisions of this section shall be deemed
guilty of a misdemeanor and upon conviction thereof shall
be punished by a fine of not less than ten dollars nor more
than one hundred dollars.

Sec. 10. Supervision of State Health Institutions.—The
state department of health shall have the advisory med-
ical supervision of Denmar, Berkeley Springs, Pinecrest,
Hopemont and all other state sanitariums for the treat-
ment of tuberculosis or chronic diseases; Huntington,
Spencer, Lakin, Weston and all other state hospitals for
the treatment of mental or nervous diseases; and Fair-
mont and Welch emergency hospitals; and the state board
of control shall have the control of the business and fiscal
affairs thereof.

The director of the bureau of tuberculosis of the state
department of health, under the supervision of the state
board of health, shall encourage measures for the sup-
pression of tuberculosis, such as clinics, camps, open air
schools, sanitariums, district nursing, anti-tuberculosis
societies, diffusion of knowledge and other means.

The state board of health may promote mental health,
by having mental hygiene clinics conducted, by utilizing
the professional services available at the state mental
hospitals, by cooperating with the state department of
education and other school authorities in making the
services of psychologists and psychiatrists available to
schools, by conducting educational programs, and by any
other means that it may deem necessary or advisable.

Sec. 11. State Laboratory; Branches.—The state board
of health may establish and maintain a state hygienic
laboratory as an aid in performing the duties imposed
upon the said board, or the department of health, by law,
and may employ any chemists, bacteriologists, and other
employees that may be necessary to properly operate such
laboratory. The board of health may establish branches
of the state laboratory at such points within the state as
it may deem necessary in the interest of the public health.

Sec. 12. Expenditures of State Department of Health.—
The state department of health shall have power to ex-
pend annually, for the purpose of performing the duties
imposed on it, or authorized by law, such sum as may be
appropriated by the Legislature for the department of
health. The director of health shall audit all bills, which
shall be made out in due form and verified by the members
of the board of health, directors of divisions, employees,
or agents rendering services or incurring traveling or
other expenses in the performance of the duties of their
offices or employments. Such bills, when approved by the
auditor, shall be paid out of the state treasury.

Sec. 13. Disposition of Moneys Received by State Direc-
tor of Health; Report to Auditor.—The state director of
health, as secretary of the board of health, shall receive
and account for all moneys required to be paid to the
board of health as fees for permits, licenses, or registra-
tions, pursuant to the provisions of this code, and shall
pay such moneys into the state treasury monthly, on or
before the tenth day of the month succeeding the month
in which such moneys were received. The director of
health shall, on the first day of January and the first day
of July in each year, or within five days thereafter, certify
to the state auditor a detailed statement of all such moneys
received by him during the preceding six months. If the
director of health shall fail or refuse to comply with the
provisions of this section, he shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined for
each offense not less than fifty dollars, nor more than two
hundred dollars.

Sec. 14. State Department of Health Authorized to Co-
operate with Federal Government in Hospital Construc-
tion Program.—The state board of health is hereby designated as the sole state agency to cooperate with the federal government in its hospital construction program; and is hereby authorized to make such an inventory of existing public health centers and public and private hospitals, and the laboratory and other facilities thereof, and to adopt and supervise the administration of such a statewide plan for the construction of additional hospitals and public health centers as may be necessary to comply with the requirements and conditions of federal law in respect to the granting of federal aid for such purposes.

The governor shall have authority to appoint such an advisory council to consult with the state board of health as may be necessary under federal law to effectuate the purposes of this section. The members of any such advisory council shall serve without compensation, but shall be paid the amount of their traveling and other expenses necessarily incurred in the performance of their duties.

Sec. 15. Federal Aid.—The state board of health 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 county or municipality thereof, for public health purposes, or for the establishment or construction of public health facilities, whether such work is to be done by the state, or by such county or 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. The state board is authorized to, and may, act as the agent of the state or any of its agencies, or of any county or municipality of this state, upon the request of any agency of the state or of any such county or municipality, in accepting, receiving and receipting for such moneys in its behalf, for public health facilities financed either in whole or in part by federal moneys.

The state, or any agency thereof, or any county or municipality is authorized to, and may designate the state board of health as its agent for the purposes above set forth, and any such agency, county or municipality may enter into an agreement with the board prescribing the
terms and conditions of such agency in accordance with federal laws, rules and regulations, and with the 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 said counties or municipalities under such terms and conditions as may be imposed by the United States government in making such grants.

All moneys accepted for disbursement by the board 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 purpose 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 and shall be expended in accordance with federal laws and regulations and with the laws of this state. The board is authorized, whether acting for the state or one of its agencies, or as the agency for any county or municipality, when requested by the United States government or any agency or department thereof, or when requested by the state, a state agency, or any county or municipality for which the moneys has been made available, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Sec. 16. Investigations, Hearings, Power to Subpoena Witnesses; Self-Crimination.—The state board of health, any member thereof, the director of health, or any officer or employee of the department of health designated by the board of health, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the laws of this state pertaining to public health and within the authority of the state board of health, and the rules, regulations and orders of the board. Hearings shall be open to the public and shall be held upon such call or notice as the board shall deem advisable.

Each member of the board, the director and every officer or employee of the department of health designated to hold any inquiry, investigation or hearing shall have
the power to administer oaths and affirmations, certify to all official acts, issue subpoenas and order the attendance and testimony of witnesses in the production of papers, books and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the board or its authorized representative may invoke the aid of any circuit court of this state. The court may thereupon order such person to comply with the requirements of the subpoena order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

Subject to the foregoing provision the board may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigation and hearings: Provided, however, That information obtained from studies or from any investigation made or hearing held pursuant to the provisions of this article shall not be admissible in evidence in any action at law to recover damages for personal injury or in any action under the workmen's compensation act, but such information, if available, shall be furnished upon request to the West Virginia compensation commissioner for the sole purpose of adjusting claims presented to the said commissioner.

Sec. 17. State Board of Health, Orders, Notices and Opportunity for Hearing.—Every order of the state board of health 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 board will be given or the approval, license, or certificate granted or restored or the order modified or changed. Orders issued by the board pursuant to the provisions of this article shall be served upon the persons affected either by registered mail or in the manner provided by chapter fifty-six, article two, section one of this code. In every case where notice and opportunity for hearing are required under the provisions of this article, the order of
the board shall, on not less than ten days notice, specify
the time when and place where the person affected may
be heard, or the time within which he may request hear-
ing, and such order shall become effective upon the ex-
piration 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 sus-
pended until the board shall affirm, disaffirm or modify
such order after hearing held or default by the person
affected.

Sec. 18. Judicial Review of Action by State Board of
Health.—Any person aggrieved by any final order of the
state board of health shall have the right to a judicial
review of the action of the board upon certiorari by the
circuit court of the county in which the cause of action
arose. 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 cir-
cuit 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 execu-
tion or supersedeas to the order or any portion of the
order, of the board, during the time that the case is pend-
ing before the said court, if the court is of the opinion
that the order of the board or a part of such order is
reasonable and has been issued for the protection of the
public health.

Sec. 19. Meaning of Words "Public Health Council"
and "Commissioner of Health". Wherever in this code
the words "public health council" or "state public health
4 council" appear, they shall mean, and be construed as meaning the "West Virginia board of health".
6 Wherever in this code the words "commissioner of health", "health commissioner", or "state commissioner of health" appear, they shall mean, and be construed as meaning "state director of health".

Sec. 20. Penalties for Violating Provisions of this Article.—Any person violating any of the provisions of this article, 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 two hundred dollars or by imprisonment for not more than thirty days, or both.

Sec. 21. Severability.—If any provision of this article, or the application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are declared to be severable.

Article 2. Local Health Officers.

Section
3. Counties, or counties and municipalities, may combine in employment of officers and installation and maintenance of equipment.
4. State board of health may supplant local health authority; removal of delinquent local officer.

Sec. 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 or counties and any one or more municipalities within the said county or counties, may combine to cooperate with the state department of health, by vote of the county court 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 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 state board of health.

Each county or municipality participating in any such cooperative action shall annually select and appoint by vote of the county court in the case of a county, and by vote of the council or other governing body in the case of a municipality, not less than one nor more than three persons to be members of a combined board of health. No such person shall be selected by, nor represent on any such combined board, more than one such county or municipality. The number of persons to be selected by each participating county or municipality as members of such board, subject to the limitation contained in the two preceding sentences, shall be agreed upon by the several counties or municipalities participating. Any such combined board of health shall consist of the several members so selected. Such board shall organize by electing a chairman from among its members. It shall have the power to adopt, and from time to time amend, such rules and regulations as it may deem necessary concerning the time and place of its meetings, the procedure and method of conducting its meetings or business, and any other matters affecting, or necessary to, the orderly and efficient discharge of its duties or exercise of its powers. All powers and duties belonging to or vested in county boards of health or municipal boards of health are hereby vested in, conferred upon, and declared to be, the powers and duties of, any combined board of health created pursuant to the provisions of this section. The territorial jurisdiction of any such combined board of health shall be coextensive with the boundaries of all of the counties and municipalities which have been combined to cooperate as herein provided.

Upon the formation of a combined local board of health as herein provided, and during the period that it continues to exist, there shall be no separate county board of health
or municipal board of health in any county or municipal-
ity represented on the combined board of health.

Sec. 4. State Board of Health May Supplant Local
Health Authority; Removal of Delinquent Local Officer.—
When, in the opinion of the state board of health, any
local health authority shall fail or refuse to enforce
necessary laws and regulations to prevent and control
the spread of communicable or infectious disease de-
clared to be dangerous to the public health, or when, in
the opinion of the said state board, a public health emer-
gency exists, the state board may enforce its rules and
regulations within the territorial jurisdiction of such local
health authorities, and for that purpose shall have and
may exercise all the powers given by law to local health
authorities. All expenses so incurred shall be a charge
against the counties, cities, or towns concerned. And in
such cases the failure or refusal of any local health of-
ner or local health body to carry out the lawful orders
and regulations of the state board of health shall be suf-
ficient cause for the removal of such local health officer
or local health body from office, and upon such removal
the proper county or municipal authorities shall at once
nominate a successor, other than the person removed, as
provided by law.

Article 3. Prevention and Control of Communicable and In-
fected Diseases.

Section 1. State board of health may establish quarantine and control epi-
demics.
2. Powers of county and municipal boards of health to establish
quarantine; penalty for violation.
5. Free serum or vaccine preventives of disease.
12. Same; duties of state board of health.

Section 1. State Board of Health May Establish Quar-
antine and Control Epidemics.—The state board of health
is empowered to establish and strictly maintain quaran-
tine at such places as it may deem proper, and forbid and
prevent the assembling of the people in any place, when
the said board or the state director of health or any
county or municipal health officer deems that the public
health and safety so demand, and may adopt rules and
regulations to obstruct and prevent the introduction or
spread of smallpox or other communicable or infectious
diseases into or within the state, and shall have the
power to enforce these regulations by detention and ar-
rest, if necessary. It shall have power to enter into any
town, city, factory, railroad train, steamboat or other
place whatsoever, and enter upon and inspect private
property for the purpose of investigating the sanitary
and hygienic conditions and the presence of cases of
infectious diseases, and may, at its discretion, take charge
of any epidemic or endemic conditions, and enforce such
regulations as it may prescribe. All expenses incurred
in controlling any endemic or epidemic conditions shall
be paid by the county or municipality in which such
epidemic occurs.

Sec. 2. Powers of County and Municipal Boards of
Health to Establish Quarantine; Penalty for Violation.—
The county board of health of any county may declare
quarantine therein, or in any particular district or place
therein, whenever in their judgment it is necessary to
prevent the spread of any communicable or infectious
disease prevalent therein, or to prevent the introduction
of any communicable or infectious disease prevailing in
any other state, county or place, and of any and all per-
sons and things likely to spread such infection. As soon
as such quarantine is established such board shall, in
writing, inform the state board of health thereof, the
duty of which it shall be to ascertain, as soon as prac-
ticable, the necessity therefor, if any exists, and if the
said state board, or the state director of health, acting
for the said state board, finds that no such necessity
exists, the same shall, by the said state board, be declared
raised. The said county board of health shall have power
and authority to enforce such quarantine until the same
is raised as aforesaid, or by themselves, and may con-
fine any such infected person, or any person liable to
spread such infection, to the house or premises in which
he resides, or if he has no residence in the county, at a
place to be provided by them for the purpose; and if it
shall become necessary to do so, they shall summon
sufficient guard for the enforcement of their orders in the premises. Every person who shall fail or refuse to comply with any order made by such board under this section, and every person summoned as such guard who shall, without a lawful excuse, fail or refuse to obey the orders and directions of such board in enforcing said quarantine, shall be guilty of a misdemeanor, and for such offense shall be fined not less than twenty-five nor more than two hundred dollars. In cases of emergency or actual necessity, and when the court or corporate authorities are from any cause unable to meet or to provide for the emergency or the necessity of the case, all actual expenditures necessary for local and county quarantine, as provided for in this section, shall be certified by the county board of health to the county court, and the whole, or as much thereof as the said court may deem right and proper, shall be paid out of the county treasury. The board of health of any city, town or village shall have, within the municipality, the same powers and perform the same duties herein conferred upon and required of the county board of health in their county. So far as applicable the provisions of this section shall apply to any quarantine established and maintained by the state board of health pursuant to section one of this article.

**Sec. 5. Free Serum or Vaccine Preventives of Disease.**

--The state board of health shall purchase vaccine lymph, diphtheria antitoxin, tetanus antitoxin and such other forms of serum or vaccine preventives of disease as it may deem necessary, and shall distribute the same, free of charge, in such quantities as it may deem necessary, to county and municipal health officers, to be used by them for the benefit of, and without expense to the indigent within their respective jurisdictions, and in other cases where it may be urgently necessary to check contagious and control epidemics.

The state board of health shall also deliver, free of charge, to such drug stores or other stores within each county as the health officer of such county may designate as proper depositories, such quantities of diphtheria anti-
toxin as said board may deem necessary for the use of the
indigent of such county, and such antitoxin shall be
kept at said drug stores or other stores at all times and in
sufficient quantities to permit immediate delivery to any
licensed physician who may require the same for the
treatment of any indigent person infected with diphtheria,
or to prevent such infection, without cost to the patient
so treated. The state board of health shall take a receipt
from the proprietor of each drug store or other store for
any antitoxin delivered as herein provided.

The auditor of the state shall pay the actual cost of all
said serum and vaccine preventives and the cost of deliv-
ering said diphtheria antitoxin to any drug store or other
store, upon the presentation of the original invoices
thereof, duly verified by affidavit and approved by the
state director of health, and shall in addition pay to said
drug stores or other stores, for delivery of said diphtheria
antitoxin to the physicians aforesaid, a commission of ten
percent of the original cost of said antitoxin so delivered.

Sec. 6. Nuisances Affecting Public Health.—The state
board of health, the state director of health or any county
or municipal health officer shall inquire into and investi-
gate all nuisances affecting the public health within its or
his jurisdiction; and the said board or any such officer or
the county court of any county or any municipality is au-
thorized and empowered to apply to the circuit court of
the county in which any such nuisance exists, or to the
judge thereof in vacation, for an injunction forthwith to
restrain, prevent or abate such nuisance.

Sec. 12. Same; Duties of State Board of Health.—It
shall be the duty of the state board of health:
(a) To enforce the provisions of sections seven to thir-
teen, inclusive, of this article.
(b) To promulgate such rules and regulations as shall
be necessary for the purpose of enforcing said provisions,
and as the state board of health may deem necessary for
the further and proper guidance of local health officers;
(c) To provide for the gratuitous distribution of one
per cent solution of silver nitrate outfits, together with
proper directions for the use and administration thereof,
to all physicians and midwives who may be engaged in the
practice of obstetrics, or assisting at childbirth;
(d) To publish and promulgate such further advice
and information concerning the dangers of inflammation
of the eyes of the new-born as is necessary for prompt and
effective treatment;
(e) To furnish copies of sections seven to thirteen,
inclusive, of this article to all physicians and midwives
who may be engaged in the practice of obstetrics, or as­
sisting at childbirth;
(f) To keep a proper record of any and all cases of in­
flammation of the eyes of the new-born of which reports
are filed with the state board of health pursuant to law,
or which may come to their attention in any way, and to
constitute such records a part of the annual report to the
governor;
(g) To report any and all violations of the public
health laws or of any rules or regulations lawfully adopted
pursuant thereto that may come to their attention, to the
prosecuting attorney of the county wherein said viola­
tions may have occurred, and to assist said official in any
way possible in the prosecution of such cases.


Section 2. Division of vital statistics; supervision by state board of health;
state registrar of vital statistics; appointment.

Local registrars; duties.

Section 2. Division of Vital Statistics; Supervision by
State Board of Health; State Registrar of Vital Statistics;
Appointment. — The state board of health shall have gen­
eral supervision over the division of vital statistics, which
shall be under the immediate direction of the state reg­
istrar of vital statistics, who shall be appointed by the
state board of health, with the advice of the state director
of health, and who shall be a competent vital statistician.
The board shall provide for such clerical and other as­
sistants in the division of vital statistics as may be neces­
sary for the purposes of this article. The custodian of the
capitol shall provide for the division of vital statistics
suitable offices in the state capitol at Charleston, which
shall be properly equipped with fireproof vault and filing
cases for the permanent and safe preservation of all official records made under and returned under this article.

Sec. 17. Local Registrars; Duties.—Each local registrar shall supply blank forms of certificates to such persons as require them. Each local registrar shall carefully examine each certificate of birth or death when presented for record, in order to ascertain whether or not it has been made in accordance with the provisions of this article and the instructions of the state registrar; and if any certificate of death is incomplete or unsatisfactory, it shall be his duty to call attention to the defects in the return, and to withhold the burial or removal permit until such defects are corrected. All certificates, either of birth or of death, shall be written legibly, in durable black ink or with a typewriter, and no certificate shall be held to be complete and correct that does not supply all of the items of information called for therein, or satisfactorily account for their omission. If the certificate of death is properly executed and complete, he shall then issue a burial or removal permit to the undertaker: Provided, That in case the death occurred from some disease which is held by the state board of health to be infectious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be issued by the registrar, except under such conditions as may be prescribed by the state board of health. If a certificate of birth is incomplete, the local registrar shall immediately notify the informant, and require him to supply the missing items of information, if they can be obtained. He shall number, consecutively, the certificates of birth and death, in two separate series, beginning with number one (1) for the first birth and the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each birth and each death certificate registered by him, and shall, on or before the tenth day of each month, transmit to the state registrar all original certificates registered by him for the preceding month and the copies of such certificate made as herein provided. If no births or no deaths occurred in any month, he shall, on the tenth
day of the following month, report that fact to the state registrar, on a card provided for such purpose.

Article 5-a. Cancer Control.

Section

1. Division of cancer control.

Section 1. Division of Cancer Control.—There is hereby created a division of cancer control in the state department of health. The division, under the supervision of the state board of health, shall execute and administer the provisions of this article relating to the diagnosis, treatment and care of persons suffering from cancer. The division shall have authority to direct, control, govern and provide for the management of any state institution for the care and treatment of cancer patients which may hereafter be created by law.

The head of the division shall be appointed in the same manner as the heads of other divisions in the department. He must meet the requirements and possess the qualifications fixed by the merit system council in consultation with the state board of health. The said board may also appoint such assistants and employees in the division of cancer control as may be necessary for the proper administration of the provisions of this article, such appointments also to be made in accordance with the rules and regulations of the merit council.

Article 5-b. Hospitals and Similar Institutions.

Section

9. Appointment and term of office of advisory board members.

Section 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, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the state board of health. The advisory board shall meet at least twice each year and at the call of the state board of health. The members of the advisory board shall annually elect one of its members to serve as chairman.

The advisory board shall be appointed by the governor by and with the consent of the senate. Of the seven mem-
members of the board, four shall be persons who are well-
versed in hospital organization and administration, and
the remaining three shall be chosen from persons of rec-
ognized ability in the fields of medicine and surgery, nurs-
ing, welfare, public health, architecture, or allied profes-
sions in the field of health, or consumers of hospital ser-

c
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 person
for seven years. Thereafter each member shall be appoint-
ed to serve seven years or until his successor is appointed.
In the case of a vacancy the appointee shall serve the re-
mainder of the unexpired term.
Members of the advisory board shall be eligible to suc-
ceed themselves. Members of the advisory board shall
serve without compensation but shall be entitled to reim-
bursement for actual expenses incurred in the perform-
ance of the duties of their office.

Article 7. Pure Food and Drugs.

Section 3. Inspection and Analysis of Food and Drugs.—
Whenever the state board of health, the West Virginia
board of pharmacy, or any county or municipal health
officer has reason to believe that any food or drug manu-
factured for sale, offered for sale, or sold, within this
state, is adulterated, such board of health or board of
pharmacy, by its authorized agent, or such county or
municipal health officer, shall have the power, and it shall
be his duty, to enter, during the usual hours of business,
into any creamery, factory, store, sales room, drug store,
laboratory, or other place where he has reason to believe
such food or drug is manufactured, prepared, sold, or of-
f ered for sale, within the county or municipality, as the
same may be, and to open any case, tub, jar, bottle or
package containing, or supposed to contain, any such
food or drug, and take a specimen thereof for examina-
tion and analysis. If less than a whole package is taken,
the specimen shall be sealed and properly prepared for shipment to the person who shall make the analysis hereinafter provided for. No whole or less than a whole package taken and prepared for shipment shall be opened before it has been received by the analyst aforesaid.

It shall be the duty of a qualified chemist of the state health department to test and analyze any such specimen, to record the result of his analysis among the records of the department, and to certify such findings to the state board of health, the West Virginia board of pharmacy, or to the county or municipal health officers, as the case may be. If the analysis indicates that the said food or drug is adulterated, a certificate of such result sworn to by the person making the analysis, who shall also state in his certificate the reasonable cost and expense of such analysis, shall be prima facie evidence of such adulteration in any prosecution under this article.

CHAPTER 102
(House Bill No. 49—By Mr. Doringer)

AN ACT to amend and reenact section eighteen, article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to compensation of registrars of vital statistics.

[Passed February 21, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 18. Compensation of local registrars.

Be it enacted by the Legislature of West Virginia:

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

Section 18. Compensation of Local Registrars.—Each local registrar shall be paid the sum of fifty cents for each birth certificate and each death certificate properly
and completely made out and registered with him, and correctly recorded and promptly returned by him to the state registrar, as required by this article. And in case no births or no deaths were registered during any month, the local registrar shall be entitled to be paid the sum of fifty cents for each report to that effect, but only if such reports be made promptly as required by this article. The state registrar shall annually certify to the county courts of the several counties the number of births and deaths properly registered, with the names of the local registrars and the amounts due each at the rates fixed herein. All amounts payable to a local registrar under the provisions of this section shall be paid by the treasurer of the county in which the registration district is located, upon the order of the county court of such county issued upon such certification by the state registrar.

CHAPTER 103

(Senate Bill No. 237—By Mr. Love)

AN ACT to authorize and empower the bureau of dental health in the state department of health to establish a mobile dental health clinic, to be financed by federal funds.

[Passed March 5, 1949: in effect from passage. Approved by the Governor.]

State Department of Health.

Section 1. Bureau of dental health authorized to establish mobile dental health clinic.

Be it enacted by the Legislature of West Virginia:

Section 1. Bureau of Dental Health Authorized to Establish Mobile Dental Health Clinic.—The bureau of dental health in the state department of health is hereby authorized and empowered to establish a mobile dental health clinic, which clinic shall be financed solely from funds available to the bureau of dental health from the children's bureau of the United States Department of Labor and the United States Public Health Service.
CHAPTER 104
(House Bill No. 351—By Mr. Knight)

AN ACT to amend chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated two-a, relating to self-liquidating revenue bond issues by county courts, municipal corporations and county boards of education; to authorize county courts, municipal corporations and county boards of education to establish, construct, acquire, extend, equip, and improve athletic fields, stadiums, field houses, gymnasiums and other types of athletic establishments; and to defray the cost of such establishment, construction, acquisition, extension, equipment, and improvements by issuing revenue bonds, secured by and payable from the revenues from such establishments; and to authorize charges for the use of such establishments.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]


Section
1. Definitions.
2. Boards authorized to construct athletic establishments; bonds to pay costs.
2-a. Joint establishment and administration by two or more governmental divisions.
3. Construction, et cetera, to be under control of board or committee appointed by board.
5. Preliminary expenses.
7. Eminent domain.
8. Bonds for improvements and extension of existing athletic establishments.
9. Items of expense included in cost of athletic establishment.
10. Bonds to be payable from revenues only; exemption from taxation.
11. Interest rate and life of bonds; redemptions; how payable, form, denominations; additional bonds authorized; interim certificates.
12. Obligations not to bind member of board personally.
13. Additional bonds for extension or improvements of athletic establishments.
15. Bonds secured by trust indenture between board and corporate trustees.
16. Sinking fund; purchase of outstanding bonds.
17. Charges for use of athletic establishment.
18. Accounting system; yearly audit; custodian of funds.
19. Board to pay established charges and rentals for use of establish­ment.
20. Operation under supervision and control of board; leasing.
21. When statutory mortgage lien created: enforcement by bond holders; receivership.
22. Acquisition of property on which lien exists.
23. Protection and enforcement of rights of bondholders; receivership, including lessee.
24. Article confers additional powers.
26. Article liberally construed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Definitions.—(a) The term “board” as used in this article shall mean any county court, municipal corporation or county board of education in the state of West Virginia; (b) the term “athletic establishment” shall be construed to mean and include athletic fields of all types, stadiums, gymnasiums, field houses, and all other types of athletic establishments capable of producing revenue, where the cost of such acquisition, construction, extension, equipment or improvements, together with reasonable interest thereon, will be returned within a reasonable period, not exceeding thirty years, by means of charges, rentals, radio broadcasting franchise fees, and other tolls, fees and charges other than taxation; and shall mean and include such athletic establishment in its entirety, and all integral parts thereof.

Sec. 2. Boards Authorized to Construct Athletic Establishments; Bonds to Pay Costs.—Every county court, municipal corporation or county board of education in the state of West Virginia is hereby authorized and empow­ered to establish, construct, acquire, extend, equip and own, maintain and operate any of the athletic establish­ments described in section one of this article, together with all appurtenances necessary, useful or convenient for the maintenance and operation of such athletic es­tablishments, and shall have authority to acquire by gift,
grant, purchase, condemnation or otherwise, all necessary
lands, rights of way and property therefor, and to issue
revenue bonds to pay the costs of such athletic establish-
ments and property. No obligation shall be incurred by
the board in such establishment, construction, acquisition,
extension or improvement, except such as is payable solely
from the funds provided under the authority of this
article.

Sec. 2-a. Joint Establishment and Administration by
Two or More Governmental Divisions.—Any county court,
municipal corporation and board of education, or any
two of them, may jointly establish and conduct such ath-
etic establishment and may exercise all the powers given
by this article. In the event of any such joint establish-
ment and operation, they may provide by agreement
among themselves for all matters connected with such
establishment and operation.

Sec. 3. Construction, et Cetera, to Be Under Control of
Board or Committee Appointed by Board.—The construc-
tion, acquisition, improvement, extension, equipment,
custody, operation and maintenance of any such athletic
establishment, and the collection of revenues therefrom,
shall be under the supervision and control of the county
court, municipal corporation or county board of educa-
tion, or all or any part of such powers, duties and re-
sponsibilities may be placed in a committee appointed
by such board by resolution duly adopted. The term
“board” when hereafter used in this article shall be
construed to mean the county court, municipal corpora-
tion or the county board of education or such duly ap-
pointed committee, as the case may be.

Sec. 4. Powers of Board.—The board shall have power
to take all steps and proceedings, and to make and enter
into all contracts or agreements necessary or incidental
to the performance of its duties and the execution of its
powers under this article: Provided, That any contract
relating to the financing or the acquisition, construction,
extension or improvement of any such works, or any trust
indenture as hereafter provided for, shall be approved
by the county court, municipal corporation or county board of education.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board may direct. No contract or agreement with any contractor or contractors for labor or material exceeding in amount the sum of one thousand dollars shall be made without advertising for bidders, which bids shall be publicly opened and award made to the lowest responsible bidder, with power in the board to reject any and all bids. After the acquisition, construction, equipment and completion of the athletic establishment the board shall operate, manage and control the same, and may order and complete any extensions, and improvements of and to the athletic establishments that the board may deem expedient if funds therefor be available, and shall establish rules and regulations for the use and operation of the athletic establishment, and do all things necessary or expedient for the successful operation thereof.

Sec. 5. Preliminary Expenses.—All necessary preliminary expenses actually incurred by the board in the making of surveys, estimates of costs and of revenues, employment of engineers or other employees, the giving of notices, taking of options, and all other expenses of whatsoever nature necessary to be paid prior to the issue, sale and delivery of the revenue bonds herein provided for, may be paid by the board to be reimbursed and repaid out of the proceeds of sale of such revenue bonds in this article provided for.

Sec. 6. Resolution for Construction, et cetera, of Establishment.—Before any board shall construct, acquire, improve, extend or equip any athletic establishment under this article, the board shall adopt a resolution which shall (a) set forth a brief general description of the athletic establishment, and if the same is to be constructed a reference to the preliminary report or plans and specifications which shall theretofore have been pre-
pared; (b) set forth the estimated cost thereof; (c) order
the construction, acquisition, extension, improvement or
equipment of such establishment; (d) direct that revenue
bonds of the board be issued pursuant to this article; in
such amount as may be found necessary to pay the costs
of such athletic establishment; and (e) contain such other
provisions as may be necessary or proper in the premises.
Before such resolution shall become effective it shall be
published once each week for two successive weeks in two
newspapers of opposite politics published in the county
in which such board is located, or in one newspaper, if
only one political faith is represented by newspapers pub-
lished in such county, or if there be no newspaper so
published, then such resolution shall be posted in at least
three public places therein. Said notice shall specify a
time and place for a public hearing, the time being
not less than ten days after the first publication or post-
ing of said notice; at which time and place all parties
and interests may appear before the board, and may
be heard as to whether or not said resolution shall
be put into effect. At such hearing all objections and
suggestions shall be heard and the board shall take such
action as it shall deem proper in the premises: Provided,
however, That if at such hearing a written protest is filed
by thirty per cent or more of the owners of real estate
situate in said county, then the board shall not take
further action unless four-fifths of the members of said
board assent thereto: And provided further, That in case
written protest is filed purporting to have been signed
by or on behalf of thirty per cent or more of the owners
of real estate in said county, the board shall have
authority to appoint a sub-committee to consist of one
proponent, one opponent and the third to be selected by
these two, to determine whether or not thirty per cent of
the property owners have in fact protested, and said sub-
committee shall report its findings to the board.

Sec. 7. Eminent Domain.—Every such board shall have
power to condemn any land or easements, necessary or
convenient for the construction of any such athletic
establishment, or extensions, improvements or additions
thereto, and in connection therewith shall have and may
exercise all the rights, powers and privileges of eminent
domain granted to county courts, municipal corporations
or county boards of education under the laws relating
thereto. Title to property shall be taken in the name of
the county court, municipal corporation or county board
of education. Proceedings for such appropriation of prop­
erty shall be under and pursuant to the general provisions
of law relating to condemnation proceedings in the
exercise of eminent domain: Provided, That the board
shall be under no obligation to accept and pay for any
property condemned, and shall in no event pay for prop­
erty condemned or purchased, except from funds pro­
vided pursuant to this article; and in any proceedings to
condemn, such orders may be made as may be just to
the board and the owners of the property to be con­
demned; and an understanding or other security may be
required securing such owners against any loss or damage
which may be sustained by reason of the failure of the
board to accept and pay for the property, but such under­
taking or security shall impose no liability upon the board,
except such as may be paid from the funds provided
under the authority of this article.
In the event of acquisition by purchase, the board
may obtain and exercise an option from the owners of
said property for the purchase thereof, and may enter
into a contract for the purchase thereof, and such pur­
chase may be made upon such terms and conditions,
and in such manner as the board may deem proper:
Provided, however, That such exercise of option, pur­
chase or contract for such purchase shall in no event
bind or obligate said board, or create any debt, liability
or claim, except such as may be paid from the funds
provided under the authority of this article.
In the event of the acquisition of any athletic estab­
lishment already constructed by purchase or condem­
nation, the board at or before the time of the adoption
of the resolution described in section six hereof, shall
cause to be determined what repairs, replacements, ad­
ditions and improvements will be necessary, in order
that said establishment may be effective for its purpose,
and an estimate of the cost of such improvements shall be included in the estimate of the costs required by section six hereof, and such improvements shall be made upon the acquisition of the establishment and as a part of the cost thereof: *Provided, however, That no board shall, under the authority conferred by this act, condemn any existing privately owned athletic establishment in operation at the date of the condemnation.*

**Sec. 8. Bonds for Improvements and Extension of Existing Athletic Establishments.**—Whenever any board now or hereafter, shall own and operate any athletic establishment as herein defined, whether acquired or constructed under the provisions of this article or not, and shall desire to construct improvements, enlargements and extensions thereto, or acquire or construct better equipment for the same, it may issue revenue bonds under the provisions of this article to pay for the same, and the procedure therefor shall be the same as in this article provided for the issuance of bonds for acquisition or construction of such athletic establishment: *Provided, however, That no existing obligations or rights shall be affected or impaired thereby.*

**Sec. 9. Items of Expense Included in Cost of Athletic Establishment.**—The cost of the athletic establishment shall be deemed to include the cost of the acquisition or construction and equipment thereof, the cost of all property and easements deemed necessary or convenient therefor; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or acquisition; engineering and legal expense; expense for estimates of cost and of revenues; expense for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the establishment and placing the same in operation, and the performance of the
things herein required or permitted in connection with any thereof.

Sec. 10. Bonds to be Payable from Revenues Only; Exemption from Taxation.—Funds for the payment of all or such part of the costs of such athletic establishment as may be determined by the board, shall be provided by the issuance of revenue bonds of such board. Such bonds shall be payable solely from the special fund herein provided for such payment; and such bonds shall not in any respect be a corporate indebtedness of the county court, municipal corporation or county board of education issuing the same. All such bonds shall be exempt from taxation by the state of West Virginia or any county or municipality therein. All of the details of such bonds and the issuance thereof shall be determined by resolution of the board.

Sec. 11. Interest Rate and Life of Bonds; Redemption; How Payable, Form, Denominations; Additional Bonds Authorized; Interim Certificates.—Such revenue bonds shall bear interest at not more than six per cent per annum, payable annually or at shorter intervals, and shall mature at such time or times not exceeding thirty years from the date thereof, as may be determined by resolution of the board. Such bonds may be made redeemable before maturity, at the option of the board, at not more than the par value thereof plus five per cent, under such terms and conditions as may be fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said resolution shall determine the form of the bonds, including the interest coupons to be attached thereto, if any, and shall fix the denomination or denominations of such bonds, and the place or places of the payment of the principal and interest thereof, which may be at any bank or trust company within or without the state, or at such other place as said resolution may provide. The bonds shall contain a statement on their face that the board shall not be obligated to pay the same, or the interest thereon, except
24 from the special fund derived from the net revenue
25 of the athletic establishment, or a certain pro rata part
26 thereof, as the case may be. All such bonds shall be, and
27 shall have, and are hereby declared to have all the
28 qualities and incidents of negotiable instruments, under
29 the negotiable instruments law of this state. Provision
30 may be made for the registration of any of the bonds
31 in the name of the owner as to principal alone. Bonds
32 shall be executed in such manner as the board may
33 direct. The bonds shall be sold by the board in such
34 manner as may be determined to be for the best inter-
35 est of the board: Provided, however, That said bonds
36 shall not be negotiated at a price lower than a price
37 which when computed to maturity upon standard tables
38 of bond values will show a net return of six per cent
39 per annum to the purchaser upon the amount paid there-
40 for. Any surplus of the proceeds from the sale of such
41 bonds over and above the cost of such athletic establishment
42 shall be paid into the sinking fund hereinafter provided.
43 If the proceeds of the bonds shall be less than the cost of
44 the athletic establishment, additional bonds may in like
45 manner be issued to provide the amount of such deficit,
46 and unless otherwise provided in the resolution author-
47 izing the issuance of the bonds first issued, or in the trust
48 indenture hereinafter authorized, shall be deemed to be
49 of same issue, and shall be entitled to payment without
50 preference or priority of the bonds first issued, but such
51 preference or priority shall not extend to an amount
52 exceeding ten per cent of the original issue. Prior to the
53 preparation of the definite bonds, interim certificates may,
54 under like restrictions, be issued with or without coupons
55 exchangeable for definite bonds upon the issuance of the
56 latter.

Sec. 12. Obligations not to Bind Member of Board Person-
2 ally.—No member of any board or any committee
3 appointed by such board hereunder shall in any event be
4 personally liable upon any contract or obligation of any
5 kind or character executed under the authority contained
6 in this article, even if said undertaking should hereafter
7 be held ultra vires.
Sec. 13. Additional Bonds for Extension or Improvements of Athletic Establishments.—Any board may pro-
vide by the resolution authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued at one time, or from time to time, under such limit-
tations and restrictions as may be set forth in said reso-
lution or trust indenture, for the purpose of extending or improving such athletic establishments when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the ath-
etic establishment, as provided in section eight of this article.

Sec. 14. How Proceeds of Bonds Applied.—All moneys received from the sale of any bonds issued pursuant to this article, after reimbursements and re-payments to said board of all amounts advanced for preliminary expenses, as provided in section five of this article, shall be applied solely to the payment of the costs of the athletic establish-
ment, or to the appurtenant sinking fund, and there shall be, and hereby is created and granted a lien upon such money, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for.

Sec. 15. Bonds Secured by Trust Indenture Between Board and Corporate Trustees.—In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the board and a corporate trustee which may be a trust company or bank having powers of a trust company within or without the state of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the athletic establish-
ment or any part thereof.

The resolution authorizing the revenue bonds, and fix-
ing the details thereof, may provide that such trust in-
denture may contain such provisions for protecting and enforcing the rights and remedies of bond holders as may be reasonable and proper, not in violation of law, includ-
ing covenants setting forth the duties of the board, and any committee appointed by the board under this article, in relation to the construction or acquisition of the ath-
18 letic establishment and the improvement, operation, re-
19 pair, maintenance and insurance thereof, and the custody,
20 safeguarding and application of all moneys, and may pro-
21 vide that the athletic establishment shall be contracted
22 for, constructed and paid for under the supervision and
23 approval of the consulting engineers employed or design-
24 nated by the board and satisfactory to the original bond
25 purchasers, their successors, assignees or nominees, who
26 may be given the right to require the security given by
27 contractors and by any depository of the proceeds of
28 bonds or revenues of the athletic establishment or other
29 moneys pertaining thereto shall be satisfactory to such
30 purchasers, their successors, assignees or nominees. Such
31 indenture may set forth the rights and remedies of the
32 bond holders and such trustee. Except as in this article
33 otherwise provided, the board may provide by resolution
34 or in such trust indenture for the payment of the pro-
35 ceeds of the sale of the bonds and revenues of the athletic
36 establishment to such officer, board or depository, as it
37 may determine, for the custody thereof, and for the
38 method of distribution thereof, with such safeguards and
39 restrictions as it may determine.

Sec. 16. Sinking Fund; Purchase of Outstanding Bonds.
2 —At or before the issuance of any such bonds, the board
3 shall, by resolution, provide for a sinking fund for the
4 payment of the bonds and the interest thereon, and the
5 payment of the charges of banks or trust companies for
6 making payment of such bonds, and interest, out of the
7 net revenues of said athletic establishment, and shall set
8 aside and pledge a sufficient amount of the net revenues
9 of the athletic establishment to be paid by the board into
10 such sinking fund at intervals to be determined by reso-
11 lution adopted prior to the issuance of the bonds, for (a)
12 the interest upon such bonds as the same becomes due;
13 (b) the necessary fiscal agency charges for paying bonds
14 and interest; (c) the payment of the bonds as they fall
15 due, or if all bonds mature at one time, the maintenance
16 of a proper sinking fund for the payment thereof at such
17 time; and (d) a margin for safety and for the payment
18 of premium upon bonds retired by call or purchase as
The board shall have the power and it shall be its duty, by resolution to establish and maintain just and equitable charges and rentals as the case may be, for the use of such athletic establishment, and may readjust, amend and modify such charges and rentals from time to time. Such charges and rentals shall be in such amounts that the total thereof shall be at least sufficient in each year for
the payment of the proper and reasonable expenses of operation, repair, replacements and maintenance of the athletic establishment, and for the payment of the sums herein required to be paid into the sinking fund. A schedule of the charges and rentals so established shall be kept on file in the office of the board issuing such bonds and also in the office of the committee having charge of the operation of such athletic establishment, if there be such committee.

Sec. 18. Accounting System; Yearly Audit; Custodian of Funds.—Any board issuing revenue bonds under the provisions of this article, shall install and maintain a proper system of accounting showing the amount of revenue received and the application of same and the board shall, at least once a year, cause such accounts to be properly audited by a competent auditor and the report of such auditor shall be open for inspection at all reasonable times to any taxpayer, citizen of the county or any holder of bonds issued under the provisions of this article, or anyone duly authorized acting for and on behalf of such taxpayer, citizen or bond holder. The treasurer of such board or other official or institution specifically charged by such board with such duty, shall be custodian of the funds derived from revenues from such athletic establishment, and shall give proper bond for the faithful discharge of his or its duties as such custodian which bond shall be fixed and approved by the board. All of the funds received as revenue from said athletic establishment, and all funds received from the sale of revenue bonds issued under this article, shall be kept separate and apart from other funds of the board, and separate accounts shall be maintained from the several items required to be set up by section fifteen of this article.

Sec. 19. Board to Pay Established Charges and Rentals for Use of Establishment.—The board shall be subject to the same charges and rentals established as herein-before provided, or to charges and rentals established in harmony therewith, for the use of such athletic establishment, and shall pay such charges and rentals, when due,
7 from corporate funds, and the same shall be deemed to
8 be a part of the revenues of the athletic establishment as
9 herein defined, and may be applied as herein provided
10 for the application of such revenues.

Sec. 20. Operation Under Supervision and Control of
1 Board; Leasing.—The board may, in its discretion, pro-
2 vide by resolution that the custody, administration, op-
3 eration and maintenance of such athletic establishment
4 shall be under the supervision and control of a committee
5 as provided by section three hereof, and in such case, the
6 board may provide by resolution for said committee to
7 exercise such of the functions of the board in connection
8 with said establishment as they consider proper, and may
9 provide for said committee to receive such compensation
10 as such board may deem proper, all of which authority
11 and compensation shall be specifically provided for by
12 resolution. All compensation and expenses of such com-
13 mittee shall be paid solely from funds provided under the
14 authority of this article. Such committee shall have power
15 to establish by-laws, rules and regulations for its own gov-
16 ernment.
17 The board also, in its discretion, may provide by reso-
18 lution for the leasing of such athletic establishment or
19 any part thereof and provide for the custody, operation
20 and maintenance thereof by a lessee in accordance with
21 the provisions of such resolution and lease contract ex-
22 ecuted pursuant thereto: Provided, however, That the
23 lessee shall pay to the board for the use of such athletic
24 establishment, or part thereof, an amount which when
25 added to other revenues therefrom shall be sufficient to
26 provide a sinking fund for the payment of the bonds and
27 the interest thereon and all other charges mentioned in
28 section sixteen hereof.

Sec. 21. When Statutory Mortgage Lien Created; En-
2 forcement by Bond Holders; Receivership.—In the event
3 bonds issued hereunder are not secured by a trust in-
4 denture as provided for in section fifteen of this article,
5 there shall be, and there is hereby, created a statutory
6 mortgage lien upon such athletic establishment acquired
7 or constructed under the provisions of this article, which
shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such athletic establishment 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 of this act, 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 board set forth in this article.

Sec. 22. Acquisition of Property on Which Lien Exists.—No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money, derived from the sale of bonds issued hereunder or otherwise, be deposited in trust to pay and redeem such lien or encumbrance in full.

Sec. 23. Protection and Enforcement of Rights of Bondholders; Receivership, Including Lessee.—Any holder of any such bonds or any of the coupons attached thereto, and the trustee, if any, except to the extent that the rights herein given may be restricted by the resolution authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus, or other proper proceeding protect and enforce any and all rights granted hereunder or under such resolution or trust indenture and may enforce and compel performance of all duties required by this article, or by such resolution or trust indenture to be performed by the board or the committee, including the making and collecting of reasonable and sufficient charges and rentals for the use of such athletic establishment. If there be default in the payment of the principal or interest of any of the bonds on the date therein named for such payment, which default continues for a period of sixty days, any court having jurisdiction may appoint a receiver to administer the athletic establishment on behalf of the board, the bond holders and trustee, if any, subject to the restrictions in the resolution or trust indenture, if any,
with power to charge and collect charges and rentals sufficient to provide for the payment of the expenses of operation, repair and maintenance, and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and said resolution and trust indenture, if any; and the power herein provided for the appointment of a receiver shall apply to cases where such athletic establishment is operated by a lessee of the board as well as to cases where operated by the board. In case a receiver is appointed for an athletic establishment operated by a lessee, the lease agreement then existing between the board and the lessee shall be automatically terminated and all property, equipment, accounts receivable and assets of every kind used in connection with the operation of such athletic establishment shall pass to the receiver, and upon the termination of such receivership, such athletic establishment, property, equipment, accounts receivable and assets of every kind then in the hands of the receiver shall pass again to the board.

Sec. 24. Article Confers Additional Powers.—The authority herein given shall be in addition to and not in derogation of any power existing in any board under any constitutional, statutory or other provisions of the law which it now may have or may hereafter acquire.

Sec. 25. Construction of Powers Conferred.—This article shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the athletic establishment herein provided for, and for the issuance and sale of bonds by this article authorized, and shall be construed as an additional alternative method therefor, and for the financing thereof, and no petition or other or further proceeding in respect to the construction or acquisition or improvement of such athletic establishment, or to the acquisition or sale of bonds for the improvement of such athletic establishment, or in respect to the issuance or sale of bonds under this article, and no publication of any resolution, notice, or proceeding relating to such construction, improvement
or acquisition, or to the issuance or sale of such bonds shall be required, except such as are prescribed under this article, any provisions of other statutes of the state to the contrary notwithstanding.

Sec. 26. Article Liberally Construed.—This article being for the public health, safety, and welfare, shall be liberally construed to effectuate the purposes thereof.

CHAPTER 105
(Senate Bill No. 108—By Mr. Mitchell)

AN ACT to amend and reenact article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the national guard.

[Passed February 24, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 1. National Guard.

Section
1. Reorganization of national guard.
2. Commander-in-chief; appointment of officers.
3. National guard; service within or without state.
5. How national guard constituted and organized.
6. Composition of units.
7. Governor's staff; adjutant general.
8. Promotion of officers.
10. Surplus officers.
11. Resignation of officers; removal.
12. Reserve list; dismissal of officers.
13. Noncommissioned officers; appointment.
15. Enlistments.
16. Enlistment papers.
17. Discharge of enlisted men.
18. Dishonorable discharge.
19. Unlawful military organizations; penalty.
20. Uniforms, arms, equipment and supplies.
22. Offenses concerning property; penalty.
23. Unlawful wearing of uniforms; penalty.
25. Drills; target practice.
26. Camp or maneuver duty.
27. Warning for duty; exemption from arrest.
28. Absence from drill, parade or other duty; penalty.
29. Calling out national guard by governor.
30. Calling on governor or commander for aid; summons.
31. When order by civil officers to be in writing; compliance with
   written orders.
32. Command to assembly or mob to disperse.
33. Penalty for failure to disperse.
34. Power of officers.
35. Assaults on national guard or persons aiding them; penalty.
36. Repelling assault.
37. Failure to retire from unlawful assembly; penalty.
38. National guard to have right of way.
39. Regulation of occupancy of streets for passage of national guard.
40. Transportation of officers and men.
41. Suits against officers or persons acting under military authority;
   security for costs.
42. Change of venue of prosecutions or suits against members of
   national guard.
43. Pay and allowances.
44. Command pay; inspection; compensation for clerical services and
   care of property.
45. Injury while in service.
46. Military fund.
47. Military expenses.
48. Military courts; jurisdiction.
49. Courts-martial; general.
50. Appointment and composition of military courts.
51. Forms, practice; procedure.
52. Courts-martial; personnel.
53. Secrecy of proceedings.
54. Powers of president; witnesses; oaths.
55. Charges; trial.
56. General court-martial; offenses by commissioned officers; pen-
   alties.
57. Special court-martial; offenses by commissioned officers; penalties.
58. General court-martial; offenses by enlisted men; penalties.
59. Special court-martial; summary court-martial; offenses by en-
   listed men; penalties.
60. Form of summons.
61. Service of summons; penalty for failure.
62. Trial; judgment; duties of sheriff; penalty.
63. Form of execution; presumption of jurisdiction of military courts.
64. Courts of inquiry.
65. Disorderly conduct before military court; penalty.
66. Record and approval of court-martial sentence.
67. Reconvening court-martial.
68. Collection and disposition of fines.
69. Execution in aid of collection of fines and penalties.
70. Failure of sheriff to execute process or return fines.
71. Actions against members of military courts.
72. Trial by civil authorities.
73. Armory board; how constituted; duties.
74. Control of armories; acquisition of sites; appropriations and ex-
   penditures therefor; consent to acceptance of federal funds.
75. Control of new armories; rules and regulations.
76. Municipal aid for armory purposes; issuance of bonds.
77. Funds for armory purposes.
78. Disposition of abandoned or unsuitable armories.
79. Regulations while military forces on duty.
80. Governor to make rules and regulations.
81. United States army regulations.
82. Leave of absence for public officials and employees.
83. Contributing members.
84. General penalty; jurisdiction.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Reorganization of National Guard.—The governor of this state is authorized to reorganize the national guard of West Virginia under the provisions of the National Defense Act of June third, nineteen hundred sixteen, and amendments thereto. He is authorized to appoint an adjutant general under whose direction the national guard shall be reorganized and maintained.

Sec. 2. Commander-in-Chief; Appointment of Officers.—The governor shall be commander-in-chief of all military forces of the state except those which may be in the service of the United States and during such service. It shall be the duty of the governor to appoint and commission all officers of the military forces of the state, who shall be selected from the classes prescribed in the National Defense Act, and to issue necessary regulations for the government of such forces.

Sec. 3. National Guard; Service Within or Without State.—The organized militia of the state shall constitute and be known as the West Virginia national guard, and shall be liable at all times to be ordered into active service, and all, or any part thereof, may be turned over by the governor into the service of the United States, on requisition by the president, for service without the state: Provided, That no officer or enlisted man shall be held to such service for a period longer than that of the remaining time to be served by such officer or enlisted man under the term of his commission or enlistment. When the national guard of this state, or any part thereof, is called for under the constitution and laws of the United States, the governor shall order out for serv-
ice the national guard or such part thereof as may be necessary. During the absence of organizations of the national guard in the service of the United States, their state designation shall not be given to new organizations, and all organizations and officers on return from such service shall be given their former standing and rank, providing it can be feasibly done.

Sec. 4. Federal Laws and Regulations.—The duty of maintaining and governing the national guard not in the service of the United States rests upon the state, subject to the constitutional authority of Congress. The purpose of the force is national defense. Its efficiency as an agent for national defense necessarily depends upon systematic uniformity in the organization, composition, arms, equipment, training and discipline of its component parts. The attainment of such uniformity and efficiency requires on the part of each state a rigid adherence to federal laws and regulations relating to the national guard. Therefore, the governor shall cause the national guard of this state always to conform to all such federal laws and regulations as are now or may hereafter from time to time become operative and applicable, notwithstanding anything in the laws of this state to the contrary.

Sec. 5. How National Guard Constituted and Organized.—The national guard of West Virginia shall be organized and equipped in accordance with the provisions of the national military establishment regulations governing same. The governor shall at all times have the power to create new organizations whenever, in his judgment, the efficiency of the state force will thereby be increased, except insofar as such action would be contrary to the provisions of the regulations of the national military establishment governing the national guard; and he is hereby directed to organize a unit or units and equip same, composed of negro troops which unit or units shall be organized and equipped in accordance with the provisions of the U. S. Army regulations governing same, and he shall at any time have power to change the organization of departments, organizations and units so as to con-
form to any organization, system of drill, or instruction now or hereafter adopted for the Army of the United States, and for that purpose the number of officers of the organizations and units may be increased or diminished and their rank increased or reduced to the extent necessary by such change. The officers of the foregoing departments shall be of like rank as officers of similar departments of the national military establishment of the United States and shall perform like duties. The number of such officers shall be determined by the governor, but this number shall be limited to the actual requirements of the different departments and the governor may designate one officer as chief of a number of different departments, unless such action would be contrary to the regulations provided by the national military establishment for the government of the national guard. The governor shall have the power, in case of war, insurrection, invasion or imminent danger thereof, to increase the force beyond the maximum now established by law and to organize the same with the proper officers as the exigencies of the service may require. In the event of the formation of any such new organizations, officers holding commissions in the national guard as organized at such time shall be eligible for commission in such new organizations and units with like or higher grade and rank, if found capable. after examination by an authorized board, and shall be given preference over the one not holding commission at the time.

Sec. 6. Composition of Units.—The number and grades of officers and enlisted men of the state staff shall be as prescribed by federal law and regulations thereunder issued by direction of the secretary of defense. In case of emergency, line officers of the national guard, active or reserve, may be temporarily detailed by the governor for staff duty.

All officers of the staff and subordinate units shall be appointed by the governor from officers or ex-officers who have had previous military experience of not less than two years, or as provided in section eight, and shall hold their respective grades until they reach the retire-
ment age as established and prescribed by currently con-
trolling federal regulations, unless they resign or are
discharged for disability, or by reason of the findings of
a court-martial legally convened for the trial of such
officers, and vacancies shall be filled by appointment of
persons fulfilling the above requirements of this section.

Sec. 7. Governor's Staff; Adjutant General.—The
staff of the governor shall consist of one adjutant general
with rank of brigadier general, an assistant adjutant gen-
eral with rank not above that of colonel, and, in addition
thereto, such other officers as may be currently prescribed
by existing tables of organization as established by federal
authority. The governor may also appoint and commis-
sion an honorary staff to serve during his term of office, of
such number as he may deem advisable, with such rank
as he may fix, which honorary staff will not be held to
be a part of the regularly organized militia.

The adjutant general shall be appointed and commis-
sioned by the governor, but no person shall be appointed
adjutant general unless such person has had at least six
years' service in the national guard of this or some other
state, or in the armed forces of the United States, or in all
combined.

In time of peace he shall perform the duties of chief of
the pay, quartermaster and ordnance departments unless
otherwise ordered by the governor, and shall give bond
in such sum as the governor may require, such bond to
be provided in like manner as the bonds of other officers.
He shall receive a compensation of six thousand dollars
per annum, which shall be paid to him in equal monthly
installments, and his term of office shall be for four years.
He shall attest, record, and seal with the seal of the state
all commissions issued by the governor, and keep a regis-
ter of all commissioned officers, with dates of commission,
and all changes occurring in the commissioned force, and
shall keep a full and complete record at all times of the
organized militia of the state. He shall, as soon as possible
after the first day of July in even years, make a biennial
report to the governor of the transactions and the expendi-
tures of his department and the condition of the national
Such report shall show all receipts into the military or militia fund of the state from every source, including fines, appropriations from the state, and all money received from the federal government and from every other source. All such funds and moneys shall be paid into the state treasury as soon as received, and shall be credited to the military fund. Such report shall also show in detail all expenditures made from each fund, and the purpose of the expenditures, and shall state such other details as the governor may order; and the report shall be communicated by the governor to the next session of the Legislature. He shall also make such other reports and returns as may be required by the governor from time to time. He shall cause to be procured, prepared and issued to the different organizations of the national guard all necessary books and blanks for reports, records, returns and general administration, and shall, at the expense of the state, cause the military laws, military code, and rules and regulations in force to be printed, bound in proper form, and distributed, one copy to each commissioned officer, and one each to all the circuit, intermediate and criminal court judges, sheriffs, assessors, and justices of the peace in the state requiring them; and shall procure and supply all necessary text books of drill and instruction. He shall keep in his office an accurate account of all state and United States property issued to the state. He shall keep on file in his office all official bonds, except the bond of the adjutant general, which shall be filed with the auditor of the state; the reports and returns of troops and heads of military departments; and all other writings and papers which are required to be transmitted to and preserved at the general headquarters of the state militia. He shall employ such clerical force and assistants as may be required in the military department, in addition to the assistant adjutant general herein authorized, which assistant adjutant general shall receive a compensation of four thousand eight hundred dollars per annum, payable in equal monthly installments. He shall keep records of all service personnel from the state of West Virginia, commissioned or enlisted, in any of the wars of the United States, and of individual claims of citizens of West Virginia for service
rendered in such wars. He shall assist all persons residing in this state having claims against the United States for pension, bounty or back pay, or such claims as have arisen out of, or by reason of, service in any of said wars. To this end he shall cooperate with the agents or attorneys of such claimants, furnish to claimants only all necessary certificates or certified abstracts from, or copies of, records or documents in his office, and shall in all practicable ways seek to secure speedy and just action in all claims now pending or which may hereafter be filed: Provided, That any and all of the above services shall be rendered without charge to the claimant. He shall establish and maintain as a part of his office a bureau of records of the services of the West Virginia troops during such wars, and shall keep arranged in proper and convenient form all records and papers pertaining thereto.

Sec. 8. Promotion of Officers.—Appointment and promotion of officers shall be made in conformity with currently existing rules and regulations of the federal military establishment governing eligibility and procedure, but nothing herein shall be construed to limit the power of the governor to appoint, commission, and promote an officer in the national guard for state service only.

Sec. 9. Oath of Commissioned Officers.—Every officer duly commissioned shall, within ten days after his commission is tendered to him, or within ten days after he shall be personally notified that the same is held in readiness for him by any superior officer, take and subscribe to the constitutional oath of office. In case of neglect or refusal to take and subscribe to such oath within the time mentioned, he shall be deemed to have resigned such office. Such oath shall be taken and subscribed before any officer authorized to take acknowledgments of deeds in this state, or some officer who has taken it himself and who is hereby authorized to administer the same. All military officers attesting oaths required by the provisions of this article shall do so without fee.

Sec. 10. Surplus Officers.—Commissioned officers who shall be rendered surplus by reduction, consolidation, or
Sec. 11. Resignation of Officers; Removal.—No resignation shall be accepted unless the officer tendering the same shall furnish to the adjutant general a certificate from each property accounting officer that he has delivered all books and other property of the state in his possession to the officer authorized to receive the same, and that his accounts for money or public property are correct, and that he is not indebted to the state or federal military authorities. No commissioned officer shall be removed from office, unless by the senate on recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, or an examining board, or pursuant to law.

Sec. 12. Reserve List; Dismissal of Officers.—Any commissioned officer who shall have served for a continuous period of ten years may, upon his own request, be placed upon the reserve list and withdrawn from active service and command by order of the governor, and the vacancy thereby created shall be filled in the same manner as other vacancies. Any commissioned officer who has become or shall become disabled, and thereby incapable of performing the duties of his office, shall be withdrawn from service and command and placed on the reserve list, and any commissioned officer who has, or shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall be dismissed. Such transfer or dismissal shall be by order of the governor, and, before making such order, the governor shall appoint a board of not less than three nor more than five commissioned officers, one of whom shall be a medical officer, whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer as appears disabled, unfit or incompetent from any cause to perform military service, and whose case...
shall be referred to it by the governor. No officer whose rank or promotion would be affected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Such board is hereby invested with the powers of courts of inquiry and courts-martial, and, whenever it finds an officer incapacitated for active service, shall report such facts to the governor, stating the cause of incapacity, whether from disability, unfitness or incompetency, and if he approves such findings, such officer shall be placed on the reserve list or dismissed as provided in this section. The members of the board shall, before entering upon the discharge of their duties, be sworn to an honest and impartial performance of their duties as members of such board. No officer shall be placed upon the reserve list or dismissed by the action of such board without having had a fair and full hearing before the board, if upon due notice he shall demand it. It shall not be necessary to refer any case arising under this section for the action of such board, unless the officers designated by the governor to be placed on the reserve list or dismissed shall, within twenty days after being notified that they will be so transferred or dismissed, serve on the adjutant general notice in writing that they demand a hearing and examination before such board.

Sec. 13. Noncommissioned Officers; Appointment.—All noncommissioned officers of the staff, corps, departments and other organizations of the national guard shall be appointed by the appointing authority prescribed by federal law and regulations which are now or may hereafter from time to time become operative and applicable.

Sec. 14. Reduction of Noncommissioned Officers.—The officer warranting noncommissioned officers shall have power to reduce, or reduce to the ranks, on the application of the immediate commanding officer of the organization to which he belongs; for good and sufficient reasons, the noncommissioned officers of his command: Provided, however, That in active service for the state, in cases requiring immediate example, a noncommissioned
Sec. 15. Enlistments.—Able-bodied men of good character who conform in all respects to the qualifications prescribed by federal law and regulations now in force, or that may hereafter become operative and applicable, governing enlistment in the national guard, may be enlisted in the national guard of West Virginia under the same conditions and the same enlistment period as are now, or may hereafter be, prescribed by federal law for the national guard of the United States. Every enlisted man, if in active service, may continue to be held for duty for a period not exceeding three months after the expiration of his term of enlistment or reenlistment, and shall retain rank and be eligible to promotion until he is actually discharged. When an organization is consolidated or disbanded, its enlisted men discharged by reason thereof shall hereafter reenter the service shall have allowed to them as part of their term of service the time already served. An enlisted man may be transferred from one organization to another upon such regulations as the governor may prescribe.

Sec. 16. Enlistment Papers.—Every person recruited for the national guard shall sign an enlistment paper, which shall be forwarded to the adjutant general, of such form as may be prescribed, which shall contain an oath of allegiance to the state and the United States. Such oath of allegiance may be taken before any commissioned officer of the national guard, who is hereby authorized to administer the same, or before any civil officer duly authorized to administer oaths.

Sec. 17. Discharge of Enlisted Men.—Whenever any enlisted man of the national guard shall have performed service therein for the term of his enlistment or reenlistment, and has turned in to the proper officer all state or military property for which he is responsible, his commanding officer shall grant him a full and honorable discharge, except in time of insurrection or invasion. Dis-
charge for physical disability shall be granted pursuant to applicable rules and regulations. The governor may authorize for sufficient reason, and in his discretion, the discharge of enlisted men, with or without their consent, at any time, upon the recommendation of the commanding officer of the unit, organization or squadron to which they belong. An enlisted man who cannot, after due diligence, be found, or who shall remove his residence from the state, or to such a distance from the armory of his organization, as to render it impracticable for him to perform properly military duties, or who shall be convicted of a felony, may be discharged by order of the governor.

Enlisted men may be honorably discharged, discharged, or discharged dishonorably; but in no case may an enlisted man be dishonorably discharged unless by sentence of a general court-martial, except as hereinafter provided. No enlisted man shall be honorably discharged from service unless he produces the certificate of his immediate commanding officer that he has turned over or satisfactorily accounted for all property issued to him.

Sec. 18. Dishonorable Discharge.—A dishonorable discharge from service in the national guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the adjutant general at the time of such discharge, and in two newspapers of opposite politics and general circulation, if such there be in the locality in which such dishonorably discharged person resides, and a complete list of all such dishonorably discharged persons shall be kept posted in all the armories in the state. No persons so discharged shall be admitted to any armory or other meeting place of the national guard or to the immediate vicinity of any encampment, drill or parade of troops. All commanding officers are hereby required to enforce these prohibitions.

Sec. 19. Unlawful Military Organizations; Penalty.—It
shall be unlawful for any body of men whatever, other
than the regularly organized national guard or the troops
of the United States, to associate themselves together as
a military company or organization in this state: Pro-
vided, That the governor may grant permission to public
or private schools of the state to organize themselves
into companies of cadets, and may furnish such cadets,
under proper restrictions, such obsolete ordnance stores
and equipment owned by the state as are not in use by
the national guard. Whosoever offends against the provi-
sions of this section, or belongs to or parades with any
such unauthorized body of men with arms, shall be pun-
ished with a fine of not exceeding one hundred dollars
or imprisoned for a term not exceeding six months.

Sec 20. Uniforms, Arms, Equipment and Supplies.—
The uniforms, arms, equipment and military supplies
necessary for the proper performance of the duties re-
quired by this article shall be similar to those prescribed
for the army of the United States. Commissioned officers
shall provide themselves with the uniform, arms and
equipment lawfully prescribed and approved, and there
shall be allowed annually, to aid them in procuring and
maintaining same in condition for service, the sum of
seventy-five dollars each: Provided, however, That on
and after July one, one thousand nine hundred fifty-one,
the annual sum of one hundred dollars shall be allowed.
All uniforms, arms, equipment and other property shall
be issued to organizations of the national guard, and
accounted for under such regulations as the governor may
prescribe.

Sec. 21. Military Property.—All officers shall be respon-
sible for the safe keeping and return of all military prop-
erty committed to their charge, but no such property shall
be issued until suitable bond shall be given by such offi-
cers, in an amount and with security approved by the
governor, for the safe keeping and return of the same.
Whenever property is ordered transferred by the gov-
ernor from one unit to another, the officer turning the
property over shall be held responsible for the same until
he has received a receipt from the officer to whom the
transfer is ordered to be made. In case of state property
worn out and become worthless in the service of the state,
an inspector shall have power to condemn the same and
authorize the officer responsible to drop it from his re-
turns, but no inspecting officer shall exercise this power
except when inspecting such property under authority of
the governor. Any officer who shall neglect or refuse to
properly account for any military property he shall have
received shall be guilty of a misdemeanor, and, upon conv-
iction thereof, shall be punished as provided in section
eighty-four.

Sec. 22. Offenses Concerning Property; Penalty.—Who-
ever shall secrete, sell or dispose of, or offer for sale,
or purchase, knowing the same to be such, retain after
proper demand is made, or in any manner pawn or pledge,
any military property, which shall have been issued
under the provisions of this article, shall be guilty of a
misdemeanor, and, in addition to the punishment pro-
vided for misdemeanors in this article, shall forfeit to
the state twice the cost of the property so secreted, sold,
disposed of, offered for sale, or purchased, retained after
proper demand has been made, pawned or pledged.

Sec. 23. Unlawful Wearing of Uniforms; Penalty.—Any
person who shall wear any uniform or any device, strap,
knot, or insignia of any design or character, used as a
designation of grade, rank or office, such as are by law
or regulations, duly promulgated, prescribed for the use of
the national guard, or similar thereto, except members
of the army or navy of the United States or the national
guard of this or any other state, members of associations
wholly composed of soldiers honorably discharged from
the service of the United States, or the members of the
Order of Sons of Veterans, shall be guilty of a misde-
meanor, and, on conviction thereof, shall be fined not
less than ten nor more than one hundred dollars, and any
member of the national guard who shall, when not on
duty, wear any such uniform or equipment issued by the
state without the permission of his commanding officer,
shall be subject to a fine of not more than fifty dollars.

Sec. 24. Annual Inspection and Muster.—An annual
inspection and muster of each organization of the national
guard shall be made by an inspector at such time and place
as the governor shall order and direct.

Sec. 25. Drills; Target Practice.—Organization and unit
commanders may in their discretion order drills of such
portion of their command as may be deemed necessary;
and may in their discretion order target practice for their
command: Provided, That if any expense is to be in-
curred, authority must be obtained from the adjutant
general.

Sec. 26. Camp or Maneuver Duty.—The governor, ex-
cept as provided in section forty-six, shall cause the na-
tional guard to perform at least five consecutive days of
camp or maneuver duty in each calendar year, exclusive
of the time consumed by troops in going to and returning
from camp, and shall designate the time and place there-
for. The commanding officer of an encampment may fix
certain bounds within the limits of the camp ground, not
including any public road, within which no spectator shall
enter without leave, and whoever does enter within such
boundary, either with or without permission, may be
expelled therefrom by the commanding officer, or by
his order, and whoever intrudes within such limits when
forbidden to do so, or, after entering by permission, con-
ducts himself in a disorderly manner, or whoever resists
a sentry or guard acting under orders to prevent such
entry, or to prevent disorderly conduct, or to expel any
person or persons ordered to leave such boundary, may
be arrested by the commanding officer, or by his order,
and taken before a justice of the peace of the county in
which such camp is located, and, upon conviction, shall
be fined not less than ten nor more than one hundred
dollars, and the costs of prosecution, and committed to the
jail of the county until such fine and costs are paid.

Sec. 27. Warning for Duty; Exemption from Arrest.—
Officers and enlisted men shall be warned for duty in
the manner prescribed by the governor in orders or regu-
lations. No person belonging to the military forces of
the state, while performing military duty under proper
orders of his superior officers, shall be arrested on civil
process, nor shall any person belonging to the military
forces of the state, while performing military duty under
proper order of his superior officer, be arrested on crim-
inal process, except upon process from a circuit or crim-
inal court or a judge thereof in vacation.

Sec. 28. Absence from Drill, Parade or Other Duty;
Penalty.—Organization and unit commanders of the na-
tional guard, upon receiving information as to the where-
abouts of any officer or enlisted man of their organization
who is absent from any drill, parade or other prescribed
duty without having been properly excused, may cause
such officer or enlisted man to be taken into custody and
forthwith conveyed to the organization rendezvous to be
there kept until such duty is completed or until relieved
by the organization commander; and said organization
commander is hereby authorized to direct any or all
members of his command at his discretion to apprehend
such officer or enlisted man and convey him to the organ-
ization rendezvous.

Enlisted men who shall, without proper excuse, be ab-
sent from or in any other respect be delinquent at, any
drill, parade, encampment, meeting for instruction, or
other duty ordered by competent authority, may be fined
by a summary court not more than five dollars, and im-
prisoned not more than five days in jail for each offense
or delinquency.

The aggregate punishment under this section shall not
exceed thirty days' jail sentence at any one time.

Sec. 29. Calling out National Guard by Governor.—In
event of war, insurrection, rebellion, invasion, tumult,
riot, mob or body of men acting together by force with
intent to commit a felony or to offer violence to persons
or property, or by force and violence to break and resist
the laws of this state or the United States, or in case of
the imminent danger of the occurrence of any of said
events, or in event of public disaster, the governor shall
have power to order the West Virginia national guard, or
any part thereof, into the active service of the state, and
to cause them to perform such duty as he shall deem
proper.
Sec. 30. Calling on Governor or Commander for Aid; Summons.—In case of any breach of the peace, tumult, riot, unlawful assemblage, or resistance of law, or imminent danger thereof, which cannot be speedily suppressed or effectually prevented by the ordinary posse comitatus and peace officer, it shall be the duty of the judge of any court of record, sheriff of any county, or mayor of any city, town or village to call upon the governor for aid, and in cases where the emergency is such as not to admit of this delay, upon the commander of any organization or unit, and it shall be the duty of the organization or unit commander upon whom such call is made, to order out, in aid of the civil authorities, the military force or any part thereof under his command. Such call for aid shall be by means of a summons issued by such judge, sheriff, or mayor, directed to the commander of any such unit or organization, directing him to order his command, or such part thereof as in the judgment of such commanding officer may be necessary, to appear at a time and place therein specified to aid the civil authority in supporting the laws; which summons shall be in substance, as follows:

The State of West Virginia,

To (insert the officer's title) A.B.,

Commanding (insert his command), Greetings:

Whereas, It has been made to appear to (the sheriff or mayor, as the case may be), of (the county, city or town), of ____________________________, that (here state one or more of the causes above mentioned), in our _____________ of ____________________________, that military force is necessary to aid the civil authority in suppressing the same, and the urgency is such as not to admit of the delay necessary in calling upon the governor for military aid; Now, therefore, we command you that you cause your command, or such part thereof as may be necessary, armed and equipped with ammunition, and with proper officers, to parade at ____________________________ on _____________, then and there to obey such orders as may be given according to law. Hereof fail not at your peril and have you there this summons, with your doings returned thereof.

This summons shall be signed and properly attested
as the act of such judge, sheriff or mayor, and may
be varied to suit the circumstances of the case; and a
copy of the same shall be immediately forwarded to the
governor by the civil officer issuing the same. The offi-
cer to whom the order of the governor or such summons
is directed shall forthwith order the troops therein called
for to parade at the time and place appointed; and shall
immediately, by telegraph or most expeditious means, no-
tify the governor and adjutant general of the receipt of
such summons and also by letter through the usual mili-
tary channels. Such troops shall appear at the time and
place appointed, armed, equipped and with ammunition,
and shall obey and execute such orders as they may then
and there receive according to law. All orders from civil
officers to military commanders must be in writing and
attested by two witnesses; but such orders shall contain
only the specific act to be performed by the military offi-
cer. The manner of performing such act shall be left to
the discretion of the military officer. Military command-
ers shall transmit a copy of such orders at once through
channels to the governor.

Sec. 31. When Order by Civil Officers to Be in Writing;
Compliance with Written Orders.—Any officer whose
command is called out under the provisions of this article,
and reporting to any civil officer may require such civil
officer to make such order in writing and prescribe there-
in the outline of the duties required of him and his com-
mand, and may decline to obey such orders until put in
writing; and while such commanding officer must obey all
lawful written orders of such civil officer, such military
officer may use his discretion as to the manner of carrying
out such orders, so long as he complies with their spirit.

Sec. 32. Command to Assembly or Mob to Disperse.—
Before using any military force in the dispersion of any
riot, rout, tumult, mob or unlawful assembly, or combi-
nation mentioned in this article, it shall be the duty of
the civil officer calling out such military force or some
conservator of the peace, or if none be present, then of
the officer in command of the troops, or some person by
him deputed, to command the persons composing such
riotous, tumultuous or unlawful assembly or mob to disperse and retire peaceably to their respective abodes and business; but in no case shall it be necessary to use any set or particular form of words in ordering the dispersion of any riotous, tumultuous or unlawful assembly; nor shall any such command be necessary where the officer or person, in order to give it, would necessarily be put in imminent danger of loss of life or great bodily harm, or where such unlawful assembly or mob is engaged in the commission or perpetration of any forcible or atrocious felony, or in assaulting or attacking any civil officer or person lawfully called to aid in the preservation of the peace, or is otherwise engaged in actual violence to persons and property.

Sec. 33. Penalty for Failure to Disperse.—Any person or persons composing or taking part in any riot, rout, tumult, mob or lawless combination or assembly mentioned in this article, who, after being duly commanded to disperse, as provided in the preceding section, wilfully and intentionally fails to do so as soon as practicable, shall be guilty of a felony, and, on conviction thereof, shall be imprisoned in the penitentiary for not less than one or more than two years.

Sec. 34. Power of Officers.—After any person or persons, composing or taking part, or about to take part, in any riot, mob, rout, tumult, or unlawful combination or assembly mentioned in this article shall have been duly commanded to disperse, or when the circumstances are such that no such command is requisite under the provisions of this article, and civil officer to whom such military force is ordered to report, or if there be no civil officer present, then such military officer (or if such command is acting under the direct order of the governor, then such officer within the limits provided in his instructions) shall take such steps for the arrest, dispersion, or quelling of the persons composing or taking part in any such mob, riot, tumult, outbreak, or unlawful combination or assembly mentioned in this article, as may be required, and if, in doing so, any person is killed, wounded,
or otherwise injured, or any property injured or de-
stroyed, by the civil officer, or officer or member of the
national guard, or other persons lawfully aiding them,
such officer, member or person shall be held guiltless.

Sec. 35. Assaults on National Guard or Persons Aiding
Them; Penalty.—It shall be unlawful for any person to
assault, fire upon, or throw any missile at, against or
upon any member or body of the national guard, or civil
officer or other person lawfully aiding them, when going
to, returning from, or assembled for performing any duty
under the provisions of this article; and any person so
offending shall be guilty of a felony, and, on conviction,
shall be imprisoned in the penitentiary for not less than
two nor more than five years.

Sec. 36. Repelling Assault.—If any portion of the na-
tional guard, or any person lawfully aiding them in the
performance of any duty, under the provisions of this
article, is assaulted, attacked or in imminent danger there-
of, the commanding officer of such national guard need
not await any orders from any civil magistrate, but may
at once proceed to quell such attack and disperse the at-
tacking parties, and take all other needful steps for the
safety of his command.

Sec. 37. Failure to Retire from Unlawful Assembly;
Penalty.—Whenever any shot is fired or missile thrown
at, against or upon any body of national guard, or upon
any officer or member thereof, assembling or assembled
for the performance of any duty under the provisions of
this article, it shall forthwith be the duty of every person
in the assembly from which such shot is fired, or missile
thrown, to immediately disperse and retire therefrom,
without awaiting any order to do so; and any person
knowing or having reason to believe that a shot has been
so fired, or missile thrown from any assembly of which
such person forms a part or with which he is present, and
failing without lawful excuse to retire immediately from
such assembly, shall be guilty of a misdemeanor; and any
person so remaining in such assembly, after being duly
commanded to disperse, shall be guilty of a felony and
on conviction, shall be imprisoned in the penitentiary not
less than one nor more than two years.

Sec. 38. National Guard to Have Right of Way.—Any portion of the national guard parading or performing any duty according to law shall have the right of way in any street or highway through which they may pass: Provided, That the carriage of United States mails and operation of fire engines and fire departments shall not be interfered with thereby.

Sec. 39. Regulation of Occupancy of Streets for Passage of National Guard.—Whenever any rout, riot, or mob has occurred or is progressing, or is so imminent that any portion of the national guard is or has been called out for the performance of any duty under the provisions of this article, it shall be lawful for the civil officer under whose orders the national guard is acting or the commanding officer of such national guard, if it be deemed advisable in subduing or preventing such mob, or riot, or the outbreak thereof, to prohibit all persons from occupying or passing on any street, road, or place, or where the national guard may be for the time being, and otherwise to regulate the passage and occupancy of such streets and places. Any person, after being duly informed of such regulations, who wilfully and intentionally, without any lawful excuse, attempts to go or remain on such street, road, or place, and fails to depart after being warned to do so, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than ten nor more than one hundred dollars, or imprisoned in the county jail not less than ten nor more than sixty days, or both; and in such case the officer in command of the national guard may forthwith arrest persons so offending and turn them over to some civil magistrate.

Sec. 40. Transportation of Officers and Men.—The several railroads and other transportation companies in this state shall furnish transportation for all officers and enlisted men in the national guard, together with the stores, ammunition and equipment, when traveling on duty under orders from competent authority, on request of the
officer desiring transportation, which request shall state
the number of persons to be carried, and their destina-
tion, and for such transportation said companies shall be
entitled to receive compensation from the state at the
rate specified.

Sec. 41. Suits Against Officers or Persons Acting Under
Military Authority; Security for Costs.—When a suit or
proceeding shall be commenced in any court by any per-
son, against any military officer of the state, for any act
done by such officer in his official capacity in the discharge
of any duty under this article, or against any person act-
ing under the authority or order of any such officer, or
by virtue of any warrant issued by him pursuant to law,
the court shall, upon motion of the defendant, when it
has been made to appear to the court by affidavit, or
otherwise, that the act done is such as hereinbefore set
forth, require the person prosecuting or instituting the
suit or proceeding to file security for the payment of
costs that may be incurred by the defendant therein. This
security shall be by bond payable to the state, with surety
to be approved by the clerk of the court, in a penalty
equal to six times the costs incurred and likely to be
incurred by the defendant, but in no case shall such bond
be for a penalty less than five hundred dollars. The court
before whose clerk such bond is given, may, on motion
by a defendant, give judgment for so much as he is en-
titled to by virtue of such bond under the provisions of
this section. If such security for costs be not given within
sixty days from the time the same is required by the court
to be given, the suit or proceedings shall, by order of the
court, be dismissed. In case the plaintiff in any suit or
proceeding shall be nonsuited, or shall have a verdict or
judgment rendered against him, or in case any suit or
proceeding shall be dismissed for failure to give security
for costs, then the defendant shall recover three times
the amount of the costs incurred by him. In all such cases
as are referred to in this section the defendant may make
a general denial and give the special matter in evidence.

Sec. 42. Change of Venue of Prosecutions or Suits
Against Members of National Guard.—Any civil or mili-
tary officer or member of the national guard, or any person lawfully aiding them in the performance of any duty required under the provisions of this article, who is indicted or sued for any injury to person or property in endeavoring to perform such duty, shall have the right, and it is hereby made the duty of the court in which such indictment or suit is pending, upon the application of any person so indicted or sued, to remove the trial of the indictment or suit to some county free from exception.

Sec. 43. Pay and Allowances.—The pay for officers and enlisted men of the West Virginia national guard for service at camps of instruction, rifle practice, practice marches and maneuvers, or other duties ordered by the president of the United States, shall be such as are provided in the national defense act and amendments thereto. Officers and enlisted men, when employed in the actual service of the state, as defined and provided in this article, beginning on the day they assemble at their armories or other designated places, until the day they have returned thereto and been properly relieved, inclusive, fractional parts of a day counting as a full day, shall receive pay and allowances at the rates which are currently applicable for federal service. Transportation for all military personnel, and subsistence for enlisted men, shall be provided by the state when the national guard is engaged in state duty.

Sec. 44. Command Pay; Inspection; Compensation for Clerical Services and Care of Property.—There shall be paid to each regimental commander one hundred dollars per month, and to each battalion commander fifty dollars per month, payable quarterly, to be known as command pay. The governor may, by order, direct such organization commanders to make certain inspections of the organizations in their command, and file reports thereon, not exceeding four visits to each of such organizations in any one year, and for which such commanding officer shall receive no other compensation than that mentioned herein, but may be reimbursed his actual traveling expenses.

There shall be allowed to each regimental headquarters for clerical service the sum of one hundred and fifty dol-
lars per month; to each separate battalion or similar
organization, not a part of a regiment or group within
the state, the sum of fifty dollars per month for clerical
service; and to each company, or corresponding unit, the
sum of twenty dollars per month for like services, payable
quarterly.

In the discretion of the adjutant general, there may be
paid to the enlisted man who is directly responsible for
the care and custody of the federal and state property of
each organization or unit, the sum of ten dollars per
month, payable quarterly, upon the certificate of his com-
manding officer that he has faithfully and satisfactorily
performed the duties assigned him and accounted for all
property intrusted to his care.

Sec. 45. Injury While in Service.—A member of the
national guard who shall, when on duty or assembled
therefor, in case of riot, tumult, breach of the peace, in-
surrection, or invasion, or whenever ordered by the gov-
ernor, commanding officer of the national guard, or called
in aid of the civil authorities by proper military order,
receive an injury, or incur or contract any disability or
disease, by reason of such duty or assembly therefor, or
who shall without fault or neglect on his part be wound-
ed or disabled while performing any lawfully ordered
duty, which shall temporarily incapacitate him from pur-
suing his usual business or occupation, shall, during the
period of such incapacity, receive the pay provided by
this article and actual necessary expenses for care and
medical attendance. All claims arising under this sec-
section shall be inquired into by a board of three officers,
at least one being a medical officer, to be appointed, upon
the application of the member claiming to be so incapaci-
tated, by the commanding officer of the organization or
unit to which such member is attached or assigned. Such
board shall have the same power to take evidence, ad-
minister oaths, issue subpoenas and compel witnesses to
attend and testify and produce books and papers, and
punish their failure to do so, as is possessed by a general
court-martial. The findings of the board shall be subject
to the approval of the officer convening it, and also to the
approval of the governor, either of whom may return the proceedings of the board for revision and for the taking of further testimony. The amount found due such member by such board, to the extent that its findings are approved by the reviewing officers thereof, shall be paid by the treasurer of the state out of any moneys in the military fund unexpended. The widow and children of every officer or soldier killed, while in the service of the state, shall be suitably provided for by the Legislature.

Sec. 46. Military Fund.—The sums of money which may be appropriated by the Legislature for carrying into effect any provisions of this article, and the fines and penalties required thereby to be paid to the treasurer of the state, shall constitute the military fund of the state for the uses and purposes set forth in this article. The state treasurer shall, at the end of each quarter, render to the adjutant general a statement of the condition of the military fund, showing the amount on hand at the beginning of the quarter, the amount received and expended during the quarter, and the balance on hand at the end of the quarter. The adjutant general shall furnish the governor a copy of this quarterly report, and if the sum appropriated by the Legislature for any year shall not be sufficient to pay for duty at the annual encampment for the number of days provided in this article, then either such encampment shall not be held for that year, or held without pay, or held for less number of days than provided in this article, as the governor may determine, so that no deficiency shall be created by reason of the holding of such encampment.

Sec. 47. Military Expenses.—All payments made under the provisions of this article, except for active service, shall be paid out of the military fund, and all expenses incurred in active service shall be paid out of any moneys in the treasury not otherwise appropriated. The military fund shall be disbursed on warrant of the adjutant general, properly drawn, and in such manner as the governor may order, or as may be required by law, but no warrant for funds signed by him shall be honored by the auditor
until such adjutant general shall have executed and filed such bond as may be required by the governor. Payments shall be made on proper vouchers, which vouchers shall show the authority under which the expenditures are made, contain an itemized statement of the transaction, and be filed for record in the office of the adjutant general. All claims for services rendered or material furnished shall be approved by the officer ordering the work or material, and shall be over his certificate to the effect that the amount is just and reasonable, and that it has not been previously paid. No expenditures shall be made by any officer until an estimate of the amount and a statement of the necessity therefor shall have been laid before the adjutant general and his approval received.

Sec. 48. Military Courts; Jurisdiction.—Military courts of this state shall be: (a) General courts-martial; (b) special courts-martial; (c) summary courts-martial; (d) courts of inquiry; and shall have jurisdiction over any officer, warrant officer, or enlisted man of the West Virginia national guard and other persons subject to military law for any crime made punishable by this article. The jurisdiction of the courts established by this article shall be presumed and the burden of proof shall rest with the person seeking to oust any such court of jurisdiction in any matter or proceeding.

Sec. 49. Courts-Martial; General.—Officers shall be triable only by general courts-martial and special courts-martial, and in no case, whether officer or enlisted man, shall a person be tried by persons inferior in rank or grade when it can feasibly be avoided. An enlisted man may request that at least one-third of a general or special court-martial total membership consist of enlisted men.

Sec. 50. Appointment and Composition of Military Courts.—(a) General courts-martial shall be appointed by the governor, and shall consist of not less than five members. (b) Special courts-martial may be appointed by the governor, or as provided in the manual for courts-martial, U. S. army, and shall consist of not less than
three members. (c) Summary courts-martial may be ap-
appointed by the governor, or as provided in the manual
for courts-martial, U. S. army, and shall consist of one
officer. (d) Courts of inquiry may be appointed by the
governor, or as provided in the manual for courts-martial,
U. S. army, and shall consist of from one to three officers.

Sec. 51. **Forms; Practice; Procedure.**—The practice and
procedure of courts-martial and courts of inquiry shall
conform to the procedure of similar courts in the army
of the United States, except as otherwise specially pro-
vided herein. Such forms as are necessary for carrying
into effect the provisions of this article shall be prescribed
by the governor. The president of any military court au-
thorized herein shall have authority to appoint and dis-
miss required clerks and reporters and the compensation
therefor shall be taxed as costs in such case. The clerk
of a summary court shall receive a reasonable compensa-
tion to be fixed by the court, not to exceed one dollar for
each man tried.

Sec. 52. **Courts-Martial; Personnel.**—The senior in rank
among the members present is the president and presiding
officer of the court. The person ordering a general court-
martial may appoint a judge advocate for the same.

Sec. 53. **Secrecy of Proceedings.**—The proceedings and
sentence of a court-martial shall be kept secret until the
same shall have been approved by proper authority. In
any event, the vote and opinion of any member of a court
shall be kept secret unless such is required to be revealed
in a court of justice.

Sec. 54. **Powers of President; Witnesses; Oaths.**—The
president of a court-martial shall have power to issue
subpoenas for the arrest of accused persons and to bring
them before the court for trial whenever such persons
shall have disobeyed an order in writing from the con-
vening authority to appear before such court, a copy of
the charge or charges having been delivered to the ac-
cused with such order, and to issue subpoenas and sub-
poenas duces tecum and to enforce attendance of wit-
nesses and the production of books and papers and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. All military courts shall have power to administer oaths as required by the manual for courts-martial, U. S. army.

Sec. 55. Charges; Trial.—When an officer or enlisted man is put under arrest for the purpose of trial, a copy of the charges and specifications upon which he is to be tried shall be delivered to him or left at his last known place of abode or business, within twenty days after arrest, and a court shall be ordered for his trial within thirty days after the notice of arrest is received by the officer authorized to order the court. He may be held in any jail or other place of detention or released upon his own recognizance or upon such bail as is deemed necessary by the circuit court of the county in which he is detained. If a copy of the charges and specifications be not served, or a court be not ordered within the time herein limited, then arrest shall cease; but such charges and specifications may be served, a court ordered and the officer or enlisted man brought to trial within twelve months after such release from arrest. The appearance of the accused, without objection, and pleading to the charges, shall be deemed a waiver of any defect or irregularity of such service of any of the papers mentioned in this section. If an officer or enlisted man who has been ordered or duly summoned to appear before a military court for trial fail to appear, the court may enter a plea of not guilty for him and proceed to trial in his absence.

Sec. 56. General Court-Martial; Offenses by Commissioned Officers; Penalties.—Commissioned officers may be tried by a general court-martial for the following offenses:
(a) For unmilitary or unofficer-like conduct;
(b) For drunkenness on duty;
(c) For neglect of duty;
(d) For disobedience of orders or any act contrary to the provisions of this article, or to the provisions of the regulations for the government of the national guard;
(e) For refusing to grant a discharge to an enlisted man when entitled to the same;
(f) For oppression or injury of any one under his command;
(g) For a combination or attempt to break, resist or evade the laws or lawful orders, given to a person, or advising any person so to do;
(h) For insult to a superior officer;
(i) For presuming to exercise his command while under arrest or suspension;
(j) For neglect or refusal when commanding officer to order out the troops under his command when required by law or lawfully ordered by his superior officers;
(k) For neglect or refusal to make a draft or detachment when lawfully ordered to do so;
(l) For parading the troops under his command on days of election contrary to law;
(m) For receiving any fee or gratuity for any certificate:
(n) For neglect, when detailed to drill or instruct a command, to make complaint for neglect or violation of duty as provided by law, or for any other neglect for which a commanding officer would be liable;
(o) For making a false certificate, account or muster or parade or property return;
(p) For conduct unbecoming an officer or a gentleman, or for conduct to the prejudice of good order and military discipline.

On conviction of any of the above-named offenses, officers may be sentenced to be dismissed, and shall thereby become incapacitated from holding any military commission, may be fined to any amount not exceeding two hundred dollars, and in addition may be confined for a period not exceeding sixty days in the county jail of any county in the state, except, however, that the maximum penalties herein set forth shall not be regarded as affecting or limiting such penalties as may be imposed under other sections of this article. The order of the general court martial directed to the jailer of such jail shall be sufficient authority for said jailer to receive and confine said prisoner.

Sec. 57. Special Court-Martial; Offenses by Commis-
Commissioned officers may be tried by a special court-martial for the same offenses listed under section fifty-six, except that upon conviction of any of the named offenses, officers may be fined to any amount not exceeding one hundred dollars, and in addition may be confined for a period not exceeding thirty days in the county jail of any county in the state, except, however, that the maximum penalties herein set forth shall not be regarded as affecting or limiting such penalties as may be imposed under other sections of this article. The order of the special court-martial directed to the jailer of such jail shall be sufficient authority for said jailer to receive and confine said prisoner.

Enlisted men, in time of peace, may be tried by a general court-martial:
(a) For disobedience of orders;
(b) For disrespect to his superior;
(c) For mutiny;
(d) For desertion;
(e) For drunkenness on duty;
(f) For conduct prejudicial to good order and military discipline;
(g) For any act contrary to the military code, or to the provisions of the regulations for the government of the national guard.
On conviction, such enlisted man may be sentenced to be dishonorably discharged with loss of time served, remanded, reduced to the ranks, or may be fined not to exceed one hundred dollars, and in addition thereto may be confined in the county jail for a period of not exceeding sixty days in any county within the state, except, however, that the maximum penalties herein set forth shall not be regarded as affecting or limiting such penalties as may be imposed under other sections of this article. The order of the general court-martial directed to the jailer of such jail shall be sufficient authority to receive and confine such prisoner in such jail.
Enlisted men may be tried by a special court-martial or a summary court-martial for the same offenses listed under section fifty-eight, except that on conviction by a special court-martial such enlisted man may be reprimanded, reduced to the ranks, or may be fined not to exceed fifty dollars, and in addition thereto may be confined in the county jail for a period of not exceeding thirty days in any county in the state, except, however, that the maximum penalties herein set forth shall not be regarded as affecting or limiting such penalties as may be imposed under other sections of this article. In the case of a summary court-martial, on conviction, such enlisted man may be reprimanded, fined not to exceed twenty-five dollars, and in addition thereto may be confined in the county jail for a period of not exceeding fifteen days in any county in the state, except, however, that the maximum penalties herein set forth shall not be regarded as affecting or limiting such penalties as may be imposed under other sections of this article. The order of the court-martial directed to the jailer of such jail shall be sufficient authority for said jailer to receive and confine said prisoner.

Sec. 60. Form of Summons.—The form of summons issued by summary courts provided by this article shall be substantially as follows, the blanks being properly filled int:

SUMMONS

The State of West Virginia:

To ........................................ , who is hereby designated and directed to serve this summons:

You are commanded to summon ................................................, to personally appear before the summary court for the trial of himself, which will meet pursuant to the laws of the State of West Virginia, at (address) ................................................, (city) ................................................, West Virginia, on the ........ day of ................................................, 19........, at ......... o'clock M., by virtue of ................................................, Orders No. ........ from headquarters ................................................, to answer delinquencies for offenses against ................................................ (herein describe briefly the offense
Sec. 61. Service of Summons; Penalty for Failure.—
2 The president of a court-martial shall designate and di-
3 rect a fit person or persons to summon all delinquents
4 to appear before the court. Service of the summons shall
5 be made by the person so designated in the same manner
6 as service or process in civil cases. The person serving
7 the summons shall receive a fee of one dollar for such
8 service, together with five cents per mile in necessary
9 travel, and such fee of one dollar together with mileage,
10 shall be taxed as a part of the costs in such proceeding.
11 The summons may be directed by the president of the
12 court-martial to the sheriff, or his deputy, or any con-
13 stable, or member of the department of public safety, or
14 to any individual, in the county where such delinquent
15 resides or may be found for service; and it shall be the
16 duty of such person in whose custody the summons has
17 been placed for service forthwith to serve same, if the
18 delinquent be found, and make due return thereof,
19 before the return day of such summons, to the president
20 of the court-martial. The return of service of such sum-
21 mons shall be in form and effect the same as is custom-
22 arily used by officers in making returns in civil process.
23 Any member of the department of public safety, sheriff,
24 or his deputy, constable or individual, who shall refuse,
25 fail or neglect to serve such summons and make his return
26 thereon to the president of the court-martial before the
27 return day thereof, shall be deemed guilty of a misde-
28 meanor, and, on conviction thereof, shall be fined not to
29 exceed fifty dollars.

Sec. 62. Trial; Judgment; Duties of Sheriff; Penalty.—
2 On the return day of the summons the court shall hear
3 the evidence and render judgment thereon as the case
may be. If, however, on the return day of the summons the accused shall fail to appear, after having been duly served with such summons, the court shall proceed to hear the evidence and try the accused in his absence and render judgment thereon as the case may be and the facts warrant. If such judgment be for a fine and costs solely, the court shall forthwith issue an execution in form and effect as hereafter set forth, and place it in the hands of the sheriff of the county wherein the accused may be found. If, however, the judgment of the court against the accused is for confinement in the county jail, the court shall forthwith issue an order directed to the sheriff of the county wherein the accused may be found, directing said sheriff to take into custody the body of the accused and confine him in the county jail. Such order so delivered by the court shall be coextensive with the state, and shall be sufficient evidence and authority for the jailer of such county jail to receive the body of the accused and confine him therein pursuant to said judgment. No prescribed form of order for confinement of the accused shall be required.

Any sheriff who fails, neglects or refuses to perform any duty required of him by this section by reason of any order of confinement directed by any court, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one hundred dollars for each offense.

Sec. 63. Form of Execution; Presumption of Jurisdiction of Military Courts.—Execution for the purpose of either collecting the fine and costs of imprisoning the delinquent for failure to pay the same shall be substantially in the following form, blanks being properly filled in:

The State of West Virginia:
To the Sheriff of .................................................. County, Greeting:
Whereas, pursuant to the laws of the State of West Virginia, by an order duly issued by (name and rank of officer ordering court) ............................................................... of the West Virginia National Guard, and dated on the ____ day of .................................................., 19____, a court was
duly appointed, for (state object of court) _____________
and,
Whereas, the said court was duly and regularly con-
vened and from time to time duly adjourned; and
Whereas, (name and rank of accused) _____________
in (organization) _____________
of the West Virginia National Guard, was duly and regu-
larly returned to said court, as required by law, charged
with (state whether accused was charged with delinquen-
cies of offenses against the military code, without speci-
fying character thereof) as appears by (either summons
or charges and specifications, as the case may be) duly
filed with said court, and was duly summoned and noti-
fied to appear before said court; and it satisfactorily ap-
ppearing to the court that such _____________
was and is a _____________ of the West
Virginia National Guard and subject to the jurisdiction
of the court; and after due deliberation of the evidence
offered by the state and the accused, the court did find and
adjudge the said _____________
(state finding) _____________
and did sentence him to pay a fine of _____________
dollars, and did also sentence him to pay costs of _____________
_____________ dollars, making a total fine of _____________
dollars; and,
Whereas, the proceedings, findings and sentences of
such court were thereafter duly approved by _____________
the officer ordering said court.
These are therefore in the name of the State of West
Virginia to command you to levy and collect said fines,
with your costs, according to law, of the goods and
chattels of _____________, and in default of
sufficient goods and chattels of such _____________,
to satisfy the same; then, within five days, to take the
body of such delinquent to the common jail of _____________
county, and deliver him to the jailer thereof; and the
said jailer is hereby directed and requested to receive
the body of such _____________ conveyed
to the jail aforesaid, and to keep such _____________
closely confined in the manner and during the time re-
quired by law, and until discharged according to law,
for which this shall be his warrant; and of your doings
by virtue thereof to make return to me within forty
days after the execution of these presents.

Given under my hand at ________________________, and
State of West Virginia, on the _____ day of ____________,
19____.

(Signed) ____________________________
(Rank and organization of presiding officer.)
West Virginia National Guard,
President of the court.

Sec. 64. Courts of Inquiry.—Courts of inquiry shall be
ordered for the same purposes as provided in the manual
for courts-martial, U. S. army, which are applicable to
this state. Such courts of inquiry shall, without delay,
report the evidence adduced, a statement of the facts,
and, when required, an opinion thereof, to the appointing
authority.

Sec. 65. Disorderly Conduct Before Military Court;
Penalty.—Any person other than a member of the na-
tional guard who shall resort to disorderly, contemptuous
or insolent behavior in, or use any insulting or indecor-
ous language or expressions to or before, any military
court, or any member of either of such courts, in open
court, to interrupt the proceedings or to impair the au-
thority of such courts, shall be guilty of a misdemeanor
and may be arrested by the order of the president of the
court, and at once delivered to the civil authorities; and
such person, if found guilty, shall be fined not less than
five nor more than fifty dollars, or imprisoned in the
county jail not exceeding thirty days, or both fined and
imprisoned.

Sec. 66. Record and Approval of Court-Martial Sent-
ence.—The record of the proceedings and sentence of
every court-martial shall, without delay, be delivered to
the appointing authority, who shall approve or disapprove
thereof. A court may proceed with the execution of a
sentence pending approval by the appointing authority.

Sec. 67. Reconvening Court-Martial.—A court-martial
appointing authority is authorized to direct a court-mar-
3 tial to reconvene, and send back its proceedings for re-
4 vision, and to remit, commute, or investigate any
5 punishment awarded by the court.

Sec. 68. Collection and Disposition of Fines.—All fines
2 under the provisions of this article not collectible by the
3 court may be levied or collected by the sheriff of any
4 county of the state, and shall be transmitted to the
5 adjutant general of the state who shall deposit the same
6 to the military fund of the state. Whenever process of
7 law is necessary for collection of fines, the sheriff shall
8 collect in addition thereto his usual fees.

Sec. 69. Execution in Aid of Collection of Fines and
2 Penalties.—For the purpose of collecting any fines or pen-
3 alties imposed by any courts-martial, the president of
4 the court shall issue execution, or executions, for the
5 collection thereof, and deliver the same to the sheriff of
6 any county for levy on the goods and chattels of the del-
7 linquent, and, in addition to such fine, shall collect the
8 necessary costs of such proceedings, as provided in civil
9 cases. On failure, within fifteen days from the time of de-
10 livery of such execution into his hands, to satisfy such
11 execution from the goods and chattels of the delinquent,
12 the sheriff shall forthwith take the body of the delinquent
13 to the county jail and therein confine him to serve the
14 execution at the space and rate of one day's confinement
15 for each two dollars of fine and the costs: Provided,
16 however, That the delinquent may furnish a bond with
17 good and sufficient surety to the sheriff to stay such
18 execution and costs for a period of thirty days, either
19 before confinement or during confinement; and if at the
20 expiration of said thirty days such delinquent fails to
21 pay the execution and costs, the sheriff may apprehend
22 the delinquent and confine him in the county jail, as in
23 the original proceeding; and if the accused be not found,
24 the sureties on such bond shall be liable to the state of
25 West Virginia for the amount of said execution and the
26 costs thereof.
27 The sheriff shall be entitled to such commissions and
28 fees as provided in civil cases.

Sec. 70. Failure of Sheriff to Execute Process or Return
Fines.—Any sheriff failing to execute any process, or to make proper return of all fines and penalties collected, shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars for each offense.

Sec. 71. Actions Against Members of Military Courts.—No action shall be maintained against any member of a military court, or officer or agent acting under its authority, on account of the imposition of a fine or penalty or for the execution of a sentence on any person.

Sec. 72. Trial by Civil Authorities.—For any offense enumerated in this article which is also cognizable under civil law, the offender may, in the discretion of his superior officer, be delivered over to the civil authorities for such action and disposition as may be warranted.

Sec. 73. Armory Board; How Constituted; Duties.—The governor, the secretary of state and the auditor shall constitute the state armory board, whose duties it shall be to approve the selection of all armory sites and plans and specifications, to contract for the erection of all armories, for the purchase of buildings suitable, or which can be made suitable, for armory purposes and the acquisition of armories already constructed, to audit and approve all bills, claims and accounts in connection with the construction or purchase of all armories before such bills, claims and accounts shall be paid, and to perform such other duties as this article may require, but without compensation except that their actual and necessary traveling expenses shall be paid; an allowance shall be made for the necessary clerical assistance, printing, stationery and postage, which shall be paid out of the fund appropriated for the maintenance of the national guard.

Sec. 74. Control of Armories; Acquisition of Sites; Appropriations and Expenaitures Therefor; Consent to Acceptance of Federal Funds.—The state armory board shall have control of any arsenal, armory, or other quarters of the national guard, camp ground and rifle range owned by the state, and shall cause the same to be kept in good repair, and all money which may be appropriated
or otherwise made available for the purchase, erection, acquisition or repair of such buildings, grounds or ranges may be expended and shall be accounted for by the armory board. The armory board may procure by purchase or condemnation sufficient ground for armories, arsenals, quarters, camp grounds or rifle ranges, when funds are available for the purpose, the title of same to be in the name of the state, and may, when the state shall be reimbursed for its expenditures, transfer title of such grounds and rifle ranges to the United States, but may provide for the retention by the state of civil and police jurisdiction through such ranges and camp grounds and a right to tax persons residing thereon.

Authorization is hereby given to acceptance by the state armory board of any federal or other funds to assist or match state appropriations for the purposes of this article. Nothing herein contained shall be construed as limiting the authority of the adjutant general to enter into leases for armory, camp, and rifle range facilities on behalf of the national guard.

Sec. 75. Control of New Armories; Rules and Regulations.—Upon the completion of any new state-owned armory building or the purchase of any armory building property, the control and use of such armory shall vest in the armory board as provided in this article: Provided, That the proceeds of rentals and other revenue derived from such armories may be devoted and applied by the armory board to the maintenance, extension, improvement and equipment thereof. The armory board may make and alter rules and regulations for the government of all officers and persons having charge of armories, arsenals, or other military property of this state.

Sec. 76. Municipal Aid for Armory Purposes; Issuance of Bonds.—Any city or village, or two or more cities or villages jointly, in which an armory has heretofore been, is now, or may hereafter be, erected or authorized under the provisions of this article, may raise and appropriate money and funds in the aid of the construction, repair and improvement thereof, and to that end may issue bonds payable not more than thirty years after their
issue and bearing interest at a rate not exceeding six per
cent per annum, and may deposit such money and funds
and the proceeds of the sale of such bonds with the state
treasurer to the credit of the proper construction fund,
and may make such further provisions for the mainten-
ance and improvements of such armory as may be deemed
necessary: Provided, That whenever the board deems it
expedient and in furtherance of the purposes of this ar-
ticle, it may purchase and finish armories already built
or partly built.

Sec. 77. Funds for Armory Purposes.—All moneys
raised for the building of any armory shall be paid to the
state treasurer, who shall keep separate account with
each organization or unit which shall avail itself of the
provisions of this article, and credit the same with the
amount of money deposited by such organization, to-
gether with the appropriation made under the provisions
of this article; and all bills for the construction or pur-
chase of armories shall, after being approved by such
board, be paid out of said account or fund, and charged
to the proper organization, upon the warrant of the
state auditor, and the state auditor shall issue his war-
rant upon such fund upon the certificate of the board.

All money returned and repaid to the state treasury
from armory property sold, damaged or destroyed, or
otherwise, shall be credited to a general armory fund,
and may be expended for the building and construction
or the purchase of armories for military organizations
not having armory accommodations under the provisions
and limitations of this article.

Sec. 78. Disposition of Abandoned or Unsuitable Arm-
ories.—Whenever any such military organization which
has availed itself of the provisions of this article, and
has received the appropriation provided herein, shall
be called or drafted into the federal service or shall be
mustered out of the service of this state, and it shall
appear probable that no new military organization will
be organized in the city or village in which the armory
is located, and there is no other military organization oc-
cupying said armory, the adjutant general shall imme-
diately take possession of and close the same, and not permit its use for other than military purposes, but the armory board shall have the authority and it is hereby expressly empowered to sell, transfer and convey such property to the municipality or municipalities in which the same is located, for public purposes, upon the repayment to the state, for credit to the general armory fund, of the appropriation expended thereon, without interest: Provided, That if such municipality shall not purchase such property, the board shall then be authorized to sell, transfer and convey the same to any individual, firm or corporation, repaying to the state at least the full appropriation expended therefor: Provided further, That if the armory cannot be sold in this manner, the armory board may lease it to the municipality for public purposes at an annual rental which shall not be less than ten per cent of the amount invested by the state in such armory: And provided further, That the armory board is hereby authorized and empowered to sell, transfer and convey on behalf of the state any state armory site or building which in the judgment of the board is unsuitable for military purposes or which has been condemned by the state fire marshal. The moneys so received from the sale of such armories shall be paid into the state treasury and by the treasurer credited to the general armory fund.

Sec. 79. Regulations While Military Forces on Duty.— When any portion of the military forces of this state shall be on duty, under or pursuant to the orders of the governor, or whenever any part of such forces shall be ordered to assemble for duty in time of war, insurrection, invasion, public danger, any breach of the peace, tumult, riot or resistance to process in this state, or imminent danger thereof, the rules and articles of war and the general regulations for the government of the army of the United States shall be considered in force and regarded as a part of this article until such forces shall be duly relieved from such duty. No punishment under such rules and articles which shall extend to the taking of life shall, in any case, be inflicted except in time of actual
war, invasion, or insurrection, declared by proclamation of the governor to exist, and then only after the approval of the governor of the sentence inflicting such punishment. In the event of invasion, insurrection, rebellion or riot, the governor may in his discretion declare a state of war in the towns, cities, districts or counties where such disturbances exist.

Sec. 80. Governor to Make Rules and Regulations.—The governor is hereby authorized to make such rules and regulations, from time to time, as he may deem expedient; but such rules and regulations shall conform to this article and as nearly as practicable to those governing the United States army, and, when promulgated, shall have the same force and effect as the provisions of this article. But the rules and regulations now in force shall remain in force until new rules and regulations are approved and promulgated.

Sec. 81. United States Army Regulations.—All matters relating to the organization, discipline and government of the national guard, not otherwise provided for in this article or in regulations, shall be decided by custom and usage of the United States army.

Sec. 82. Leave of Absence for Public Officials and Employees.—All officers and employees of the state, or subdivisions or municipalities thereof, who shall be members of the national guard, shall be entitled to leave of absence from their respective offices or employments without loss of pay, status, or efficiency rating, on all days during which they shall be engaged in drills or parades during business hours ordered by proper authority, or for field training or active service for a maximum period of thirty days in any one calendar year ordered or authorized under the provisions of state law. The term “without loss of pay” shall mean that the officer or employee shall continue to receive his normal salary or compensation, notwithstanding the fact that such officer or employee may have received other compensation from federal sources during the same period. Benefits of this section shall not accrue to individuals ordered or called to active duty by the president.
Sec. 83. Contributing Members.—In time of peace the officers commanding organizations and units may enlist contributing members not to exceed one hundred and fifty. Such members shall be subject to such contributions, dues and services as may be ordered by the respective organizations, but the dues of such members shall in no case be less than five dollars each, per annum, and the whole number of active and contributing members belonging to the active militia in any county shall not exceed five per centum of the voting population of such county.

Sec. 84. General Penalty; Jurisdiction.—A person convicted of a crime declared by this article to be a misdemeanor shall, unless otherwise provided, be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both. Any circuit, intermediate, criminal court, or justice of the peace shall have jurisdiction over offenses enumerated in this article.

CHAPTER 106

(House Bill No. 227—By Mr. File)

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 sixty-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the appointment of an inspector, other commissioned officers, noncommissioned 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 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 2. Department of Public Safety.

Section
2. Appointment of inspector, other commissioned officers, noncommissioned 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, 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, 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 not more than two captains, one lieutenant, two master sergeants, 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 appoint such civilian employees as may be necessary whose salaries shall be fixed by the board of public works.

The inspector, captains, lieutenants, master sergeants, master technical sergeants, technical sergeants, sergeants and sergeant technicians, corporals and corporals 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.

Section 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 without 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 three hundred twenty dollars; captains shall receive an annual salary of three thousand five hundred forty dollars; lieutenants shall each receive an annual salary of three thousand two hundred forty dollars; the master sergeants, master technical sergeants and first sergeants shall each receive an annual salary of two thousand eight hundred eighty dollars; technical sergeants shall each receive an annual salary of two thousand eight hundred twenty dollars; sergeants and sergeant technicians shall each receive an annual salary of two thousand seven hundred dollars; corporals and corporal technicians shall each receive an annual salary of two thousand five hundred eighty dollars; and each newly enlisted trooper shall receive a salary of one hundred twenty-five 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 seventy-five dollars monthly. During the second year of his service in the department each trooper shall receive an annual
salary of two thousand two hundred twenty dollars; during the third year of his service each trooper shall receive an annual salary of two thousand three 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 two thousand four 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 secretary of state and preserved in his office.

CHAPTER 107

(Senate Bill No. 251—By Mr. Jackson, of Logan)

AN ACT authorizing the superintendent of the department of public safety, on behalf of the state, to sell certain lands originally acquired by the state for the use of such department but no longer needed therefor.

[Passed March 11, 1949; in effect from passage. Approved by the Governor.]

Department of Public Safety.

Section 1. Superintendent authorized to sell certain lands in Logan county acquired for use of such department but no longer needed therefor.
Be it enacted by the Legislature of West Virginia:

Section 1. Superintendent Authorized to Sell Certain Lands in Logan County Acquired for Use of Such Department but No Longer Needed Therefor.—The superintendent of the department of public safety, on behalf of the state, is hereby authorized to sell at private sale, with the approval of the governor, two certain tracts of land originally acquired by the state for the use of such department but no longer needed therefor, to-wit: A tract of approximately nine acres conveyed to the state of West Virginia by Sadie Stone, widow, by a deed recorded in the office of the clerk of the county court of Logan county, in deed book number one hundred thirty, at page one hundred sixteen, and a tract of approximately three and a half acres, conveyed to the state of West Virginia by Elizabeth Smith, widow, by a deed recorded in the office of the clerk of the county court of Logan county, in deed book number one hundred thirty, at page one hundred eighteen, both tracts being located on the Guyandotte river below the town of Chapmanville, in Chapmanville district, Logan county, West Virginia. The proceeds from any such sale shall be paid into the state fund general revenue.

CHAPTER 108

(House Bill No. 380—By Mr. Kidd, by request)

AN ACT to amend and reenact sections one and three, article one; and section six, article six; chapter fifty, acts of the Legislature, one thousand nine hundred thirty-seven, as amended, and to amend article seven thereof by amending and reenacting sections four and five, and by adding a new section, to be designated section six, all relating to the regulation of motor carriers of persons or property for hire.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That sections one and three, article one; and section six, article six; chapter fifty, acts of the Legislature, one thousand nine hundred thirty-seven, as amended, be amended and re-enacted, and that article seven thereof be amended by amending and reenacting sections four and five and by adding thereto a new section to be designated section six, all 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 public service commission of West Virginia, in addition to all other powers conferred and duties imposed upon it by law, the power, authority, and duty to supervise and regulate the transportation of persons and property for hire by motor vehicles upon or over the public highways of this state so as to: (a) protect the safety and welfare of the traveling and shipping public in their use of transportation agencies by motor vehicle; (b) preserve, foster, and regulate transportation and permit the co-ordination of transportation facilities; (c) provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates. This act shall apply to persons and motor vehicles engaged in interstate commerce to the extent permitted by the constitution and laws of the United States.

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 and department thereof, and any motor vehicles
operated under a contract with a county board of educa-
tion 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 agri-
cultural 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 agri-
cultural supplies to be used on such farm or lands, and
in the transportation of 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, and (d) motor vehicles used exclu-
sively in the transportation of trash, rubbish, garbage, and
human or animal excreta.

Article 6. Duties and Privileges of Motor Carriers Subject to
Regulation of the Commission.

Section 6. Motor Carrier Fund; Assessment; Collection; Appropriation.

Section 6. Motor Carrier Fund; Assessment; Collection; Appropriation.—In addition to the license fee, 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 assessment for the
purpose of paying the salaries, compensation, costs and
expenses of administering and enforcing this act. All pro-
ceeds or funds derived from such assessment shall be paid
into the state treasury and credited to a special fund design-
ated public service commission motor carrier fund, to be
appropriated as provided by law for the purpose herein
stated. Each member of the commission shall receive a
salary of fifteen hundred dollars per annum as compen-
sation for the administration of this act in addition to
all other salary or compensation otherwise provided by
law, to be paid in monthly installments from said fund.
The special assessment against each motor carrier shall be
apportioned upon the number and capacity of motor ve-
hicles used by said carrier, computed as hereinafter pro-
vided.
(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 of subsection (a)
Of one ton or less capacity............................................. $ 9.00
Of over one to one and one-half tons capacity........ $13.50
Of over one and one-half tons to two tons capacity 18.00
Of over two tons to three tons capacity............... 22.50
Of over three tons to four tons capacity............... 27.00
Of over four tons to five tons capacity............... 31.50
Of over five tons to six tons capacity............... 36.00
Of over six tons to seven tons capacity............... 40.50
Of over seven tons to eight tons capacity.......... 45.00
Of over eight tons to nine tons capacity.......... 49.50
Of over nine tons to ten tons capacity.......... 54.00
Of over ten tons capacity, $54.00 plus $4.50 for each
additional ton of capacity in excess of ten tons.
(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 subsection (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 subsection (a).
Of ten passengers or less.............................................. $13.50
Of eleven to twenty passengers, inclusive.............. 22.50
Of twenty-one to thirty passengers, inclusive.......... 31.50
Of thirty-one to forty passengers, inclusive............ 45.00
Of over forty passengers......................................... 54.00
(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 assessment shall be subject to a reduction
in the amounts shown in subsections (b), (c), and (d)
corresponding to the unexpired quarterly periods of the
60 fiscal year, but shall not in any event be less than one-
61 fourth of such amount plus the sum of one dollar pro-
62 vided in subsection (a).
63 (f) Upon payment by any motor carrier of the assess-
64 ment provided for, the public service commission shall
65 advise the state road commission by notice in writing
66 that such assessment has been paid, whereupon the state
67 road commission may issue motor vehicle license for the
68 vehicles described in said notice.
69 (g) Prior to the beginning of any fiscal year the public
70 service commission, after taking into consideration any
71 unexpended balance in the motor carrier fund, the prob-
72 able receipts to be received in the ensuing fiscal year, and
73 the probable costs of administering and enforcing the mo-
74 tor carrier act for the ensuing fiscal year, may fix the
75 assessment provided for in this section for the ensuing
76 fiscal year in amounts which, in the commission’s judg-
77 ment, will produce sufficient revenue to administer and
78 enforce the motor carrier act for said fiscal year: Provided,
79 That in no event shall such assessment exceed the amounts
80 set up in this section.

Article 7. Complaints, Damages and Violations.

Section 4. Penalty for violation of chapter; jurisdiction.
5. Second offense; penalty.
6. Duty of prosecuting attorneys and peace officers to enforce chap­
   ter; police powers of inspectors.

Section 4. Penalty for Violation of Chapter; Jurisdiction.—Every officer, agent, employee, or stockholder of
2 any motor carrier, or any motor carrier, and every person
4 who violates, procures, aids, or abets in the violation of
5 any of the provisions of this act, or who fails to obey any
6 order, decision, requirement, rule, or regulation of the
7 commission or procures, aids, or abets any person in his
8 failure to obey such order, decision, requirement, rule, or
9 regulation, shall be deemed guilty of a misdemeanor and,
10 upon conviction, shall be fined not exceeding one thou-
11 sand dollars or confined in jail for not less than thirty
12 days nor more than one year, or both, in the discretion
13 of the court. Justices of the peace shall have concurrent
14 jurisdiction with the circuit, criminal and intermediate
courts of proceedings to enforce the penalties prescribed by this section.

Sec. 5. Second Offense; Penalty.—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 addition thereto, be confined in the county jail for not less than three months nor more than one year.

Sec. 6. Duty of Prosecuting Attorneys and Peace Officers 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 inspectors shall have all the lawful powers of peace officers to enforce this act in any county or city of this state.

CHAPTER 109

(House Bill No. 221—By Mr. Davis and Mr. Powell, of Pleasants)

AN ACT to amend and reenact sections three and seventeen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to appointment of guardians ad litem; and answers of persons under disability; and validation of previous sales and action of courts; and to amend article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by the addition of section eleven-a thereto, relating to the jurisdiction of courts to dispose of
in proceedings under article one, chapter thirty-seven, of matters which might otherwise be the subject of separate suits under section thirteen, article ten, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 1, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 3. Guardian ad litem.

11-a. Suits under article, hearing and disposing thereof.

17. Validation of previous sales.

Be it enacted by the Legislature of West Virginia:

That sections three and seventeen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted; and article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by the addition of section eleven-a thereto, all to read as follows:

Section 3. Guardian Ad Litem.—To every such infant or insane or convict defendant there shall be appointed a guardian ad litem who shall answer on oath in proper person. The infant, if over fourteen years of age, or insane or convict defendant, may also answer on oath in person, or by his next friend or legal representative.

Sec. 11-a. Suits Under Article, Hearing and Disposing Thereof.—In any suit or proceeding under this article the court shall have jurisdiction to hear, decide and dispose of any matter which involves the property or welfare of any person under legal disability who may be a party to a suit or proceeding, which matter, but for this section, would otherwise be the subject of a separate suit, or suits, under section thirteen, article ten, chapter forty-four of this code. Rules of equity governing service of process generally shall apply to all proceedings under this article,
and section seven of this article shall not require the in-
vestment of funds of any person under disability in those
cases where such funds, as a result of the court's action,
may not be available for such purpose.

Sec. 17. Validation of Previous Sales.—No sale of the
real estate of an infant, convict, or insane person, hereto-
fore made and confirmed, under and by the judgment,
order or decree of a court of competent jurisdiction, nor
any conveyance of such real estate made or to be made
under any such judgment, order, or decree, and no lease,
mortgage, or trust deed upon the real estate of any such
person, heretofore made under any such judgment, order
or decree, shall in any manner be affected or invalidated
by reason of the bill or petition in the case not having
been verified, or by reason of the persons who would be
the heirs or distributees of such infant, convict or insane
person, if he were dead, not having been made parties to
the suit or proceedings, or by reason of any other error
or defect in the proceeding or deed, not affecting the very
right of the case, or by reason of any action of the court
in dealing with, in such suit or proceedings, matters which
would otherwise have been the subject matter of a sep-
parate suit under section thirteen, article ten, chapter
forty-four of this code. All such sales and conveyances
are hereby legalized and made valid; and all such leases,
mortgages and deeds of trust, heretofore made, or to be
made under any such judgment, order or decree in those
cases where the welfare and property of the person under
legal disability has been sufficiently protected are hereby
legalized and made valid. Sales, leases, mortgages, or
deeds of trust heretofore made pursuant to judgments,
orders or decrees in suits or proceedings under this article
shall not hereafter be invalidated for the reason that the
court, in disposing of the case, failed to require such per-
sons, property and estate to be burdened with the ex-
pense of a separate suit or proceedings under section
thirteen, of article ten, of chapter forty-four of this code,
where it appears from the record that the court did
adequately protect the welfare and property of the per-
son under legal disability.
CHAPTER 110

(House Bill No. 62—By Mr. Doringer)

AN ACT to amend and reenact section seven, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-three, relating to salary and expenses of the state road commissioner.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 2-a. State Road Commissioner.

Section 7. Salary and expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 7. Salary and Expenses.—The commissioner shall receive a salary of eight thousand dollars per annum, and the necessary traveling expenses incident to 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.

CHAPTER 111

(House Bill No. 87—By Mr. McLaughlin, of Braxton)

AN ACT to amend and reenact section eight, article five-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred forty, acts of the Legislature, regular session,
one thousand nine hundred forty-seven, relating to salary 
of the commissioner of the department of motor vehicles.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Article 5-a. Department of Motor Vehicles.
Section
8. Salary and expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 8. Salary and Expenses.—The commissioner 
shall receive a salary of six thousand dollars and the 
necessary traveling expenses incident to 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.

CHAPTER 112
(Senate Bill No. 169—By Mr. Bean)

AN ACT to amend and reenact sections one, two and twenty­two, article six, chapter seventeen of the code of West Vir­ginia, one thousand nine hundred thirty-one, as amended, 
relating to the licensing of motor vehicles.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the 
Governor.]

Section
1. License for motor vehicle required: application.
2. Form of application; certificate of registration; plates; offenses; 
scope of section.
22. Government exemption from registration fee; exemption of amb­
ulances and incorporated volunteer fire departments.
Be it enacted by the Legislature of West Virginia:

That sections one, two and twenty-two, article six, 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 1. License for Motor Vehicle Required; Application.—No motor vehicle shall be driven upon the public roads, or upon any road or street within any incorporated city, town or village within the state, until the owner shall first have obtained from the department of motor vehicles, as herein provided, a license or certificate of registration therefor. An applicant desiring such license or certificate may obtain the same by filing with the department, by mail or otherwise, a statement setting forth the character of the motor vehicle to be licensed, including the name of the manufacturer, the style, color of body, motor number, type and factory number of such vehicle, the character of the motive power, the name, age, residence and business address of the owner of such vehicle, and the name of the county in which he resides, and shall state whether such vehicle is or is not to be used in the public transportation of passengers or property, or both, for compensation, and, if so used or to be used, the applicants shall so certify, and shall, as a condition precedent to the securing of such license or certificate of registration, obtain a certificate of convenience, or permit from the public service commission.

Sec. 2. Form of Application; Certificate of Registration; Plates; Offenses; Scope of Section.—Every owner of one or more vehicles, not expressly exempted by this article, shall make a separate application in writing, properly verified for each vehicle, on a form provided by the commissioner of motor vehicles, for permission to operate the same on the public roads of this state. In the application for registration the applicant shall furnish such information as the commissioner shall require. Upon receipt of such application, together with the fees hereafter provided for, the commissioner shall file the application and give to the same a distinguishing mark and number, and shall issue to the owner of the vehicle a certificate of
registration, which shall contain the number or mark assigned such vehicle, the name and place of residence of the owner and his post office address, if the same shall be different from his place of residence. Such certificate shall be of convenient size and form, and shall be at all times carried upon such vehicle, and shall be subject to examination upon demand by any proper officer, as herein provided. In addition to the certificate of registration, the commissioner shall, without additional charge, deliver to the owner metal plates bearing the abbreviation of the name of this state, the year for which issued, and the distinguishing mark or number assigned to such vehicle. Such plates shall be known as registration plates. Each year there shall be chosen a color, or combination of colors, for such registration plates, which shall be as different as practical from the color, or colors, used on the plates of the preceding year, and the colors used for the current year of the bordering states, and the numerals and letters on such plates shall be of such color as to be shown in marked contrast to the remainder of the plate. The plates shall be of such size and character as the commissioner of motor vehicles may prescribe so as to properly accommodate the numerals and other marks. An automobile shall be required to carry two, and any other licensed motor vehicle one, of such plates.

Notwithstanding the provisions of this section, the commissioner may, in his discretion, issue a type of license plate suitable for permanent use on motor vehicles, trailers, semi-trailers and motorcycles, together with appropriate devices to be attached thereto to indicate the year for which such vehicles have been properly licensed. The design of such license plates shall be determined by the commissioner.

No motor vehicle shall be driven upon any of the highways of this state without the proper registration plates fastened thereon. Registration plates issued prior to the first of the licensing year for which they are to be effective may be placed on the vehicle for which issued, not more than ten days prior to the first day of such licensing year, and used without additional registration fee: Provided, That the commissioner of motor vehicles may ex-
tend the period during which said registration plates may be used as aforesaid for such time as in his judgment may seem best.

Any person, firm or corporation failing to carry the certificate of registration, or who drives a motor vehicle without the proper registration plates affixed thereto, or who changes the name, number or other identification information on the certificate of registration, or registration plates, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than one hundred dollars: Provided, That in the case of a person to whom a certificate has been issued, but who at the time of arrest has not the same with him, the minimum fine shall be one dollar.

The provisions of this section shall apply both to the operator, or chauffeur, and to the owner who causes or knowingly permits his vehicle to be operated without a certificate of registration as herein provided.

Sec. 22. Government Exemption from Registration Fee; Exemption of Ambulances and Incorporated Volunteer Fire Departments.—The United States government, the state, or any political subdivision thereof, shall be exempted from the payment of any fee on account of registration of any vehicle owned or operated by the United States government, the state, or any political subdivision thereof, as the case may be: Provided, That the proper representative of the federal government, the state, or any such political subdivision thereof, shall make, or cause to be made, on the form provided for that purpose, an application for registration of such vehicle so owned and operated, and that the registration plate or plates issued for such vehicle shall be displayed or caused to be displayed as provided in this article: Provided further, That fire apparatus owned by the United States government, the state, or any political subdivision thereof, and by an incorporated volunteer fire department organized for protection of community property shall be exempt from all the provisions of this article except such provisions as relates to the qualification and licensing of drivers: And provided further, That any ambulance used exclusively
for charitable purposes, for which use there is no charge,
shall be exempt from all the provisions of this article,
except such provisions as relate to the qualifications and
licensing of drivers.

CHAPTER 113
(Senate Bill No. 258—By Mr. Bean)

AN ACT to amend and reenact section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certificates of title for motor vehicles and imposing a tax upon the certification of such titles.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 7. Certificates of Title.

Section 1. Certificates of title; application; tax and fee.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Certificates of Title; Application; Tax and Fee.—Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the department of motor vehicles or any other officer charged with such duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of such motor vehicle. Such application shall be upon a blank form to be furnished by the department of motor vehicles and shall contain a full description of the motor vehicle, which description shall contain the manufacturer's number, the motor number and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon such motor vehicles, the names
and addresses of the holders of such liens and such other information as the department of motor vehicles may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certification of title of each motor vehicle in the amount equal to two per cent of the value of said motor vehicle at the time of such certification. If the motor vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of said vehicle; if the motor vehicle is a used or second-hand vehicle, the present market value at time of transfer or purchase shall be deemed the value thereof for the purpose of this section: Provided, That so much of the purchase price or consideration as is represented by the exchange of other motor vehicles on which the tax herein imposed has been paid by the vendor shall be deducted from the total actual price or consideration paid for said motor vehicle, whether the same be new or second-hand; if the motor vehicle be acquired through gift, or by any manner whatsoever, unless specifically exempted in this section, the present market value of motor vehicle at the time of the gift or transfer shall be deemed the value thereof for purposes of this section. No certificate of title for any motor vehicle shall be issued to any applicant unless such applicant shall have paid to the department of motor vehicles the tax imposed by this section which shall be two per cent of the true and actual value of the said motor vehicle whether the vehicle be acquired through purchase, by gift, or by any other manner whatsoever except gifts between husband and wife or between parents and children; but the tax imposed by this act shall not apply to motor vehicles to be registered under sections seventeen and eighteen, article six of this chapter, which are used or to be used in interstate commerce, nor shall the tax imposed by this act apply to titling of motor vehicles by a registered dealer of this state for resale only. The total amount of revenue collected by reason of this tax shall be paid into the state road fund and expended by the state road commissioner in the maintenance and construction of the state's secondary roads. In addition to said tax, there shall be a charge of one dollar for each original certificate of title so issued.
57 The commissioner of motor vehicles, or other officer charged with such duty by the department of motor vehicles, if satisfied that the applicant is the owner of such motor vehicle, or otherwise entitled to have the same registered in his name, shall thereupon issue to the applicant an appropriate certificate of title over the signature of the official designated by the commissioner of motor vehicles, authenticated by a seal to be procured and used for such purpose. Such certificates shall be numbered consecutively, beginning with number one, and shall contain such description and other evidence of identification of such motor vehicle as the commissioner of motor vehicles may deem proper.

70 Such certificate shall be good for the life of the car, so long as the same is owned or held by the original holder of such certificate, and need not be renewed annually, or at any other time, except as herein provided.

74 If, by will or direct inheritance, a person becomes the owner of a motor vehicle upon which the tax herein imposed has been paid, he shall not be required to pay such tax.

78 A person who has paid the tax imposed by this section shall not be required to pay the tax a second time for the same motor vehicle, but he shall be required to pay a charge of one dollar for the certificate of re-title of that motor vehicle.

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CHAPTER 114

(House Bill No. 242—By Mr. Blankenship)

AN ACT to amend and reenact section eleven, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the passing of school buses by other motor vehicles on public highways.

[Passed March 4, 1949; in effect from passage. Approved by the Governor.]

Article 8. Traffic Regulations and Laws of the Road.

Section 11. Passing street cars and meeting, overtaking and passing school buses; penalty.
Be it enacted by the Legislature of West Virginia:

That section eleven, article eight, chapter seventeen of the code of West Virginia, as last amended, be amended and re­nacted to read as follows:

Section 11. Passing Street Cars and Meeting, Over-taking and Passing School Buses; Penalty.—Every per-son using, operating, or driving a motor vehicle upon or over any of the streets of any of the incorporated towns and cities thereof, shall bring the same to a full stop not less than five feet from any street car which has stopped to receive or discharge passengers and shall remain standing until such street car has taken on or discharged such passengers: Provided, however, That the operator may pass such street car where a safety zone is established by the proper authorities.

The driver of a vehicle upon a highway outside the limits of an incorporated town or city upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus and shall not proceed un-til such school bus resumes motion or until signalled by the driver to proceed.

Every bus used for the transportation of school child-ren shall bear upon the front and rear thereof a plainly visible sign containing the words “school bus” in letters not less than six inches in height. When a contract school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating “school bus” shall be covered or concealed.

Any person driving or operating a motor vehicle in violation of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, or imprisoned in the county jail for a period not to exceed six months, or both, at the discretion of the court or justice trying the case.
CHAPTER 115

(House Bill No. 372—By Mr. Kidd)

AN ACT to amend and reenact section twenty-five, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the operation of a vehicle while under the influence of intoxicants, drugs or narcotics, and providing penalties for the violation thereof.

[Passed March 11, 1949; in effect from passage. Approved by the Governor.]

Article 8. Traffic Regulations and Laws of the Road.

Section

25. Operating vehicle while intoxicated or under the influence of intoxicants, drugs or narcotics; penalties.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article eight, 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 25. Operating Vehicle While Intoxicated or Under the Influence of Intoxicants, Drugs or Narcotics; Penalties.—No person shall drive or operate any vehicle, motor driven or otherwise, upon any public road or street in this state, while intoxicated or under the influence of intoxicating liquor, drugs or narcotics; nor shall the owner of such vehicle, knowingly permit the same to be so operated by one intoxicated, or under the influence of intoxicating liquor, drugs or narcotics.

A person violating any provision of this section shall, for the first offense, be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or not less than fifty nor more than one hundred dollars or by imprisonment in the county jail for a period of not less than five days nor more than six months, or by both such fine and imprisonment, and his operator's or chauffeur's license shall be revoked for a period of six months.

A person violating any provision of this section shall,
for the second offense, be guilty of a misdemeanor, and
upon conviction thereof shall be punished by imprison-
ment in the county jail for a period of not less than six
months nor more than one year, which sentence shall not
be subject to probation, and his operator's or chauffeur's
license shall be revoked for a period of ten years, unless
reissued by the department of motor vehicles, as herein-
after provided. Whenever the commissioner of motor
vehicles, after full investigation, shall find that the char-
acter of any person who was convicted of a second offense
under this section and the circumstances at the time
indicate that he is not likely again to repeat his offense,
and that the public good does not require that his license
be longer revoked, the commissioner may if it is deemed
advisable reissue such license at any time more than five
years after the date on which it was revoked.
A person violating any provision of this section shall,
for the third or any subsequent offense, be guilty of a
felony, and upon conviction thereof shall be punished
by imprisonment in the penitentiary for not less than
one nor more than three years, and his operator's or
chauffeur's license shall be revoked for a period of ten
years and indefinitely thereafter unless reissued as here-
inafter provided. Whenever the commissioner of motor
vehicles, after full investigation, shall find that the char-
acter of any person who was convicted of a third or sub-
sequent offense under this section and the circumstances
at the time indicate that he is not likely again to repeat
his offense, and the public good does not require that
his license be longer revoked, the commissioner may if
it is deemed advisable reissue such license at any time
more than ten years after the date on which it was re-
voked.
The discretionary power herein conferred may be exer-
cised by the commissioner and the department of motor
vehicles with respect to the reissuing of licenses revoked
because of convictions prior to the passage of this act.
AN ACT to repeal section seven, article sixteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section six, article sixteen, chapter seventeen thereof, relating to the issuance of permits by the state road commission or the county court for openings in, or structures on, public roads.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 6. Permit by commission or county court for openings in, or structures on, public roads.

Be it enacted by the Legislature of West Virginia:

That section seven, article sixteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section six, article sixteen, chapter seventeen thereof be amended and reenacted to read as follows:

Section 6. Permit by Commission or County Court for Openings in, or Structures on, Public Roads.—No opening shall be made in any state or county-district road or highway, nor shall any structure be placed therein or thereover, nor shall any structure, which has been so placed, be changed or removed, except in accordance with a permit from the state road commission or county court, as the case may be. No road or highway shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or obstructions placed thereon, without the written permit of the commission or county court or its duly authorized agent, and then only in accordance with the regulations of the commission or court. The work shall be done under the supervision and to the satisfaction of the commission or court; and the entire expense of replacing the
17 highway in as good condition as before shall be paid by
18 the persons to whom the permit was given, or by whom
19 the work was done: *Provided, however,* That nothing
20 herein contained shall be so construed as to prevent any
21 oil or gas company or person having a proper permit or
22 franchise from transporting oil or gasoline along any of
23 the public highways of this state, nor to give such com-
24 pany a franchise without paying to the landowners
25 through whose lands such road passes the usual and cus-
26 tomary compensation paid or to be paid to the landowners
27 for such right of way. Any grant or franchise when made
28 shall be construed to give to such company or person only
29 the right to use the easement in such public road.
30 A violation of any provision of this section shall be a
31 misdemeanor, and the person or corporation violating the
32 same shall, upon conviction thereof, be fined not less than
33 twenty-five nor more than one hundred dollars for each
34 offense.

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**CHAPTER 117**

(Senate Bill No. 116—By Mr. Amos and Mr. Jones)

AN ACT to amend and reenact section twenty-two, article
seventeen, chapter seventeen of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, relating
to tolls to be charged for transit over bridges; the issu-
ance of bonds on intrastate and interstate bridges; the
purchase of existing bridges; disposition of tolls; declaring
certain bridges a part of the state road system; and pro-
viding for the payment of bonds issued thereon.

[Passed March 7, 1949; in effect ninety days from passage. Approved by the
Governor.]

**Article 17. Toll Bridges.**

Section

22. Tolls to be charged; intrastate and interstate bridges; purchase of
existing bridges; disposition of tolls.

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

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

Section 22. Tolls to Be Charged; Intrastate and Interstate Bridges; Purchase of Existing Bridges; Disposition of Tolls.—Tolls shall be fixed, charged and collected for transit over such bridges and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing and operating such bridge or bridges, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Two or more bridges may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in the same issue: Provided, That no existing bridge or bridges shall be acquired by purchase, eminent domain, or otherwise, unless the state road commissioner shall have determined that the income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the interest and sinking fund requirements of the bonds to be issued to pay the purchase price thereof. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing and operating during any period in which such cost is not otherwise provided for (during which period the tolls may be reduced accordingly), shall be transmitted each month to the state sinking fund commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the sinking fund commission within a reasonable time
for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption of bonds by lot at the redemption price then applicable.

Any bridge or bridges constructed under the provisions hereof and forming a connecting link between two or more state highways, or providing a river crossing for a state highway, are hereby adopted as a part of the state road system, but no such bridge or bridges shall be constructed without the approval in writing of the state road commissioner and the governor. If there be in the funds of the state sinking fund commission an amount insufficient to pay the interest and sinking fund on any bonds issued for the purpose of constructing such bridge or bridges, the state road commission is authorized and directed to allocate to said commission, from the state road fund, an amount sufficient to pay the interest on said bonds and/or the principal thereof, as either may become due and payable.

CHAPTER 118
(Senate Bill No. 111—By Mr. Bean)

AN ACT to amend and reenact section four, article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the unauthorized operation of vehicle; unlawful taking, receiving or disposing of the same; penalty.

[Passed February 28, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 4. Unauthorized operation of vehicle; unlawful taking, receiving or disposing of the same; penalty.

Be it enacted by the Legislature of West Virginia:

That section four, article nineteen, 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 4. Unauthorized Operation of Vehicle; Unlawful Taking, Receiving or Disposing of the Same; Penalty.—No person, other than the duly authorized agent, servant or employee of the owner thereof, shall take, without the knowledge and consent of the owner, and operate upon any public road or highway in this state, any automobile or other motor vehicle 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 drive, or otherwise take away from any street, road, alley, public or private parking place, garage or other building or place, while the same is lawfully therein or thereon, any automobile or other motor vehicle belonging to another or in his lawful possession; and any person or persons who shall assist, aid and abet, or be present for the purpose and with the intent to assist, aid or abet, another person or persons in such taking possession of, entering and driving or otherwise taking away any such automobile or other motor vehicle; and any person who shall receive, buy, conceal, or otherwise dispose of any such automobile or other motor vehicle, knowing the same to have been stolen or taken without the knowledge or consent of the owner or person in lawful charge thereof, shall be deemed guilty of a felony, and upon conviction thereof, shall be fined not less than two hundred nor more than five thousand dollars, and confined in the penitentiary for not less than one nor more than five years. If a corporation or joint stock company, through or by any of its officers, members, agents, servants or employees, under the circumstances and with the knowledge defined in this section, shall receive, buy, conceal or otherwise dispose of any such automobile or other motor vehicle, such corporation or joint stock company shall, upon conviction thereof, be punished with a fine of not less than two thousand nor more than ten thousand dollars.
CHAPTER 119

(House Bill No. 344—By Mr. Tucker)

AN ACT to amend and reenact section ten, article twenty, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the cancellation of bond or return of insurance certificate filed as proof of ability to respond in damages, and requiring the commissioner of motor vehicles to give credit for the period of time for which a citizen of this state was under bond under the laws of other states.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]


Section 10. Cancellation of bond or return of insurance certificate.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Cancellation of Bond or Return of Insurance Certificate.—(a) The commissioner shall, upon the request in writing of the person on whose behalf such proof of ability to respond in damages was furnished, cancel any bond or return any certificate of insurance filed pursuant to this article as proof of ability to respond in damages, or waive the requirement of filing proof of ability to respond in damages in any of the following events:

1. At any time after three years shall have elapsed since the filing of such bond or certificate, if the person has not, during the three year period immediately preceding the request, been convicted of any offense referred to in section two of this article; or
2. In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or
(3) In the event the person who has given proof of ability to respond in damages surrenders his operator's or chauffeur's license, every certificate of registration and all registration plates to the commissioner: Provided, however, That in each of the foregoing instances such cancellation or return shall be upon the condition that no action for damages, upon a liability referred to in this article, is pending against such person on whose behalf such proof of ability to respond in damages was furnished, that no judgment upon any such liability against such person is outstanding and unsatisfied, and that no notice has been filed with the commissioner of an accident involving such person, occurring within the three month period immediately preceding such request and resulting from the ownership, maintenance, use or operation of a motor vehicle.

The affidavit of such person, showing fulfillment of the necessary requirements under this section, shall be sufficient proof thereof in the absence of evidence to the contrary in the records of the commissioner.

Whenever any person, as to whom such proof has been so cancelled or to whom such proof has been so returned, applies for an operator's or chauffeur's license or the registration of a motor vehicle within a period of three years from the date proof of ability to respond in damages was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such period: Provided, however, That where any person has given bond as required by the laws of another state on a conviction which resulted in the loss of his driver's and/or chauffeur's license, he shall be given credit for such period of time covered by the aforesaid bond on the period of three years as required by the laws of this state.

(b) The commissioner shall cancel any bond or return any certificate of insurance to the person entitled there- to, upon the substitution and acceptance of other adequate proof of ability to respond in damages pursuant to the provisions of this article.
AN ACT to amend article twenty-one, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section one-a relating to penalties for operating a motor vehicle without an operator's license, chauffeur's license or learner's permit.

[Passed March 9, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 1-a. Penalty for operating vehicle without being licensed therefor.

Be it enacted by the Legislature of West Virginia:

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

Section 1-a. Penalty for Operating Vehicle Without Being Licensed Therefor.—Any person who shall operate any motor vehicle in violation of section one of this article shall be guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be punished by a fine of twenty-five dollars and for a second or subsequent offense shall be punished by a fine of fifty dollars and the suspension of privileges until proof of financial responsibility is established as provided for in article twenty of this chapter, but such proof shall be required for only a one-year period.

CHAPTER 121

(Senate Bill No. 153—By Mr. Johnston, Mr. President)

AN ACT authorizing the issuance and sale of fifty million dollars of road bonds of the state of West Virginia to raise
money for the construction of secondary roads under and by virtue of the "fifty million dollar bond issue for roads amendment" to the constitution adopted at the general election held in November, one thousand nine hundred forty-eight, providing for the disposition, allocation and expenditure of the proceeds of the sale thereof, and providing 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 10, 1949; in effect July 1, 1949. Approved by the Governor.]

Secondary Road Bonds.

Section
1. Road bonds; amount thereof and authority to 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; allocation among counties; expenditure.
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 Thereof and Authority to Issue.—Bonds of the state of West Virginia of the par value of fifty million dollars are hereby authorized to be issued and sold for the purpose of raising funds for the building and construction, or for assisting in the building and construction, of a system of state secondary roads and highways provided for by the “fifty million dollar bond issue for roads amendment” to the constitution adopted at the general election held in November, one thousand nine hundred forty-eight. Such bonds may be issued by the governor in such amounts, not to exceed twenty-five million dollars in any one biennium, in coupon or registered form, in such denominations, at such times and
bearing such date or dates as the governor may determine, and shall become due and payable serially in equal amounts beginning one year and ending not more than twenty-five years from the date thereof.

Sec. 2. Transfer, Fee; Registration, Fee; Where Payable; Interest Rate; Tax Exempt.—The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds, and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering "payable to bearer" bonds, and for each bond registered a fee of fifty cents shall likewise be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. All of such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at some bank in the city of New York to be designated by the governor. The bonds shall bear interest at a rate not exceeding four and one-half per cent per annum, payable semi-annually, on the first day of ___________ and the first day of ___________, of each year, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of the state, or at the bank designated by the governor, upon presentation and surrender of interest coupons then due, in the case of coupon bonds. In the case of registered bonds the treasurer of the state of West Virginia shall issue his check for the interest then due on the first day of ___________ and the first day of ___________, of each year, and mail it to the registered owner at his address as shown by the record of registration. Both the principal 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
$................................ SERIES C No........................
The state of West Virginia, under and by virtue of
authority of an act of the Legislature passed at the regu-
lar session of one thousand nine hundred forty-nine, on
the __________ day of _________________________, one
thousand nine hundred forty-nine, and approved by the
governor on the __________ day of _________________________,
one thousand nine hundred forty-nine, which is hereby
made a part hereof as fully as if set forth at length
herein, acknowledges itself to be indebted to, and here-
by promises to pay to the bearer hereof (in the case of
a coupon bond) or to .......................................................... or
assigns (the owner of record, in case of registered bonds)
on the __________ day of _________________________, 19______, in
lawful money of the United States of America at the of-
office of the treasurer of the state of West Virginia at
the capitol thereof, 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 signa-
ture 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
the limits prescribed by the constitution, the board of
not available for that purpose, it is agreed that, within
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-
according to law, dated the ______ day of _________,
one thousand nine hundred __________, and the seal of
the state of West Virginia.

(Seal)

Treasurer of the State of West Virginia

Countersigned:

Auditor of the State of West Virginia

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

STATE OF WEST VIRGINIA

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 C.

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 sep-
ate 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 govern-
ment 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
28 fund commission shall mature so as to provide sufficient
29 money to pay off all bonds herein provided to be issued
30 as they may become due; and the money so paid into the
31 state road sinking fund under the provisions of this act
32 shall be expended for the purpose of paying the interest
33 and principal of the bonds hereby provided for as they
34 severally become due and payable and for no other pur-
35 pose except that the fund may be invested until needed,
36 as herein provided.

Sec. 7. Tax Levy to Pay, Unless Other Funds Avail-
2 able.—In order to provide the revenue necessary for the
3 payment of the principal and interest of such bonds, as
4 hereinbefore provided, the board of public works, within
5 the limits prescribed by the constitution, is authorized,
6 empowered and directed to lay annually a tax upon
7 all real and personal property subject to taxation
8 within this state, sufficient to pay interest on the bonds
9 accruing during the current year and one twenty-fifth
10 of the total issue (at par value) of such bonds, for such
11 number of years, not exceeding twenty-five, as may be
12 necessary to pay the interest thereon and to pay off the
13 principal sum of the bonds; and such taxes, when so col-
14 lected, shall not be liable for or applicable to any other
15 purpose: Provided, however, That if there be other funds
16 in the state treasury, or in the state road funds, in any
17 fiscal year, not otherwise appropriated, or if other sources
18 of revenue be hereafter provided by law for the purpose,
19 the board of public works is authorized, empowered and
20 directed to set apart, in any year there be such funds, or
21 other sources of revenue provided for such purpose, a sum
22 sufficient to pay the interest on bonds accruing during
23 the current year, and to pay off, and retire the principal
24 of such bonds, or any part thereof, at maturity.
25 The authority hereby vested in the board of public
26 works shall be in addition to the authority now vested in
27 it by present law.

Sec. 8. Sale by Governor; Minimum Price.—The gov-
2 ernor shall sell the bonds herein mentioned at such time
3 or times as he may determine necessary to provide funds
4 for road construction as herein provided, upon recom-
mendation 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; Allocation Among Counties; Expenditure.—The proceeds of all sales of bonds herein authorized shall be paid into the state road fund, shall be distributed among the various counties in conformity with the method of allocation hereinafter provided, and shall be expended solely for the construction of secondary roads.

The state road commissioner shall allocate to the various counties the entire fifty million dollars to be raised by sale of the bonds herein authorized, as follows: There shall first be allocated to each county the sum of two hundred thousand dollars. Eighty per cent of the remainder shall then be allocated to the various counties on the basis of the ratio of the unimproved mileage of secondary roads in each county to the total unimproved mileage of secondary roads in the state: Provided, however, That no county shall receive under the initial allocations a sum in excess of one million one hundred thousand dollars. The amount still remaining shall from time to time be allocated by the commissioner to such of the counties and in such amounts as may in his opinion best serve the interests of the whole state by equalizing inequities resulting from the initial allocations and from varying costs of road construction under different topographical conditions.

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 ex-
penses 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 treasury.

CHAPTER 122
(Senate Bill No. 185—By Mr. Johnston, Mr. President)

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 pur-
poses 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 there-
of within twenty-five years.

[Passed February 28, 1949; in effect July 1, 1949. Approved by the Governor.]

Road Bonds.
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.—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 roads 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 dates as the governor may determine, and shall become due and payable serially in equal amounts beginning one year and ending twenty-five years from the date thereof: Provided, however, That no bonds may be issued under the provisions of this act until bonds authorized and issued under the provisions of the "good roads amendment" to the constitution of the state, ratified at the general election held in November, one thousand nine hundred twenty, have been retired and cancelled out of the state road sinking fund created by section six, chapter one hundred thirteen, acts of the Legislature of West Virginia, one thousand nine hundred twenty-one, in an amount equal to or greater than the amount to be issued hereunder at any one time.

Sec. 2. Transfer, Fee; Registration, Fee; Where Payable; Interest Rate; Tax Exempt.—The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds, and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering "payable to bearer" bonds, and for each bond registered a fee of fifty cents shall likewise be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. All of such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at some bank in the city of New York to be designated by the governor. The bonds shall bear interest at a rate not exceeding four and one-half per cent.
18 per annum, payable semi-annually, on the first day of ____,
19 and the first day of ____, of each year, to bearer, at the
20 office of the treasurer of the state of West Virginia, at the
21 capitol of the state, or at the bank designated by the gov-
22 ernor, upon presentation and surrender of interest cou-
23 pons then due, in the case of coupon bonds. In the case
24 of registered bonds the treasurer of the state of West Vir-
25 ginia shall issue his check for the interest then due on the
26 first day of __________ and ______ of each year, and mail
27 it to the registered owner at his address as shown by the
28 record of registration. Both the principal and interest of
29 the bonds shall be payable in lawful money of the United
30 States of America and the bonds shall be exempt from
31 taxation by the state of West Virginia, or by any county,
32 district, or municipality thereof, which facts shall appear
33 on the face of the bonds as part of the contract with the
34 holder thereof.

Sec. 3. Form of Bond.—The bonds and coupons shall be
2 engraved and the bonds shall be signed on behalf of the
3 state of West Virginia, by the treasurer thereof, under the
4 great seal of the state, and countersigned by the auditor
5 of the state, and shall be in the following form or to the
6 following effect, as nearly as may be, namely:
7 COUPON ROAD BOND
8 (Or registered road bond, as the case may be)
9 OF THE
10 STATE OF WEST VIRGINIA
11 $_________________________ No.______________________
12 The state of West Virginia, under and by virtue of
13 authority of an act of the Legislature passed at the regu-
14 lar session of one thousand nine hundred forty-nine, on
15 the __________ day of __________, one thousand
16 nine hundred forty-nine, and approved by the governor
17 on the __________ day of __________, one thou-
18 sand nine hundred forty-nine, which is hereby made a
19 part hereof as fully as if set forth at length herein, ac-
20 knows itself to be indebted to, and hereby promises
21 to pay to the bearer hereof (in the case of a coupon bond)
22 or to __________ or assigns (the owner of record, in
23 case of registered bonds) on the __________ day of __________,
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 an-
um 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 case of a coupon bond) may be
exchanged for a registered bond of like tenor upon ap-
plication 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 prop-
erty 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.

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:

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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. _____________.

Treasurer of the State of West Virginia

The signature of the treasurer to such coupon shall be by his engraved facsimile signature and the coupon 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.
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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 sepa-
rate 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 govern-
ment 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 inter-
est 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 Avail-
able.—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
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16 state treasury, or in the state road funds, in any fiscal
17 year, not otherwise appropriated, or if other sources of
18 revenue be hereafter provided by law for the purpose,
19 the board of public works is authorized, empowered and
20 directed to set apart, in any year there be such funds,
21 or other sources of revenue provided for such purpose,
22 a sum sufficient to pay the interest on bonds accruing
23 during the current year, and to pay off, and retire the
24 principal of such bonds, or any part thereof, at maturity.
25 The authority hereby vested in the board of public
26 works shall be in addition to the authority now vested in
27 it by present law.

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

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

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

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

Sec. 12. Interim Certificates.—The governor may au-
2 thorize the issuance of interim certificates to be issued to
3 the purchasers of such bonds to be held by them in lieu
4 of engraved bonds. When interim certificates are so is-
5 sued, 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 123
(Senate Bill No. 250—By Mr. Johnston, Mr. President)

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seven, providing for the coverage of officers and employees of the state and local governments under the old-age and survivors insurance provisions of title II of the federal social security act.

(Passed March 10, 1949; in effect ninety days from passage. Approved by the Governor.)

Article 7. Social Security Agency.

Section
1. Declaration of policy.
2. Definitions.
3. Federal-state agreement; interstate agreements.
4. Contributions by state employees.
5. Plans for coverage of employees of political subdivisions and of state and local instrumentalities.
7. Rules and regulations.
8. Studies and reports.
10. Repeal.

Be it enacted by the Legislature of West Virginia:

That chapter five 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 seven, to read as follows:
Section 1. Declaration of Policy.—In order to extend to employees of the state and its political subdivisions and of the instrumentalities of either, and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors insurance system embodied in the social security act, it is hereby declared to be the policy of the Legislature, subject to the limitation of this act, that such steps be taken as to provide such protection to employees of the state and local governments on as broad a basis as is permitted under applicable federal law.

Sec. 2. Definitions.—For the purposes of this act:
(a) The term “wages” means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were paid for “employment” within the meaning of the federal insurance contributions act, would not constitute “wages” within the meaning of that act.
(b) The term “employment” means any service performed by an employee in the employ of the state, or any political subdivision thereof, or any instrumentality of either, for such employer, except service which in the absence of an agreement entered into under this act would constitute “employment” as defined in section two hundred nine of the social security act.
(c) The term “employee” includes an officer of the state, or one of its political subdivisions or instrumentalities.
(d) The term “state agency” means the state auditor.
(e) The term “federal agency” means in each case such federal officer, department, or agency as is charged on behalf of the federal government, by or under the applicable federal law, with the particular federal functions referred to in this act in connection with such term.
(f) The term “political subdivision” includes any county, municipal corporation, or school district.
(g) The term “instrumentality”, when referring to an instrumentality of a state or political subdivision, includes only a legal entity which is separate and distinct from
the state or such subdivision and whose employees are not by virtue of their relation to such entity employees of the state or such subdivisions.

(h) The term “applicable federal law” refers to such provisions of federal law, including federal regulations and requirements issued pursuant thereto, if and when enacted, as provide for extending the benefits of title II of the social security act to employees of states, political subdivisions, and their instrumentalities.

(i) The term “social security act” means the act of Congress approved August fourteenth, one thousand nine hundred thirty-five, chapter five hundred thirty-one, forty-nine statutes six hundred twenty, officially cited as the “social security act”, as such act has been and may from time to time be amended.

(j) The term “federal insurance contributions act” means sub-chapter A of chapter nine of the federal internal revenue code as such code has been and may from time to time be amended.

Sec. 3. Federal-State Agreement; Interstate Agreements.—(a) The state agency, with the approval of the governor, is hereby authorized upon enactment of applicable federal law, to enter on behalf of the state into an agreement with the federal agency, consistent with the terms and provisions of this act, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing, with respect to services specified in such agreement, which constitute “employment” as defined in section two of this act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal agency shall agree upon, but, except as may be otherwise required by or under applicable federal law as to the services to be covered, such agreement shall provide in effect that:

(1) Benefits will be provided for employees whose services are covered by the agreement, and their depend-
ents and survivors, on the same basis as though such serv-
ices constituted employment within the meaning of title
II of the social security act.

(2) The state will pay to the federal agency, at such
time or times as may be prescribed by the applicable fed-
eral law or by regulation of the federal agency, contribu-
tions with respect to wages, as defined in section two of
this act, equal to the sum of the taxes which would be
imposed by sections one thousand four hundred and one
thousand four hundred ten of the federal insurance con-
tributions act if the services covered by the agreement
constituted employment within the meaning of that act.

(3) Such agreement shall be effective with respect to
services performed after a date specified therein but
shall in no event cover (a), in the case of state employees,
any service performed prior to the beginning of the first
calendar month after the date on which such agreement
is entered into, or (b), in the case of employees of a po-
litical subdivision or of an instrumentality of either the
state or a political subdivision, any service performed
prior to the beginning of the first calendar month after
the approval of the plan submitted under section five.

(4) All services which constitute employment as de-
 fined in section two and are performed in the employ of
the state by employees of the state, shall be covered by
the agreement.

(5) All services which (a) constitute employment as
defined in section two, (b) are performed in the employ
of a political subdivision or in the employ of an instru-
mentality of either the state or a political subdivision,
and (c) are covered by a plan which is in conformity with
the terms of the agreement and has been approved by
the state agency under section five, shall be covered by
the agreement.

(b) The state agency is hereby authorized to enter on
behalf of the state into an agreement, consistent to the
extent practicable with the terms and provisions of this
act, with the appropriate agency or agencies of any other
state or states and with the federal agency, whereby the
benefits of the federal old-age and survivors insurance
system shall be extended to employees of any instru-
mentality jointly created by this state and such other
state or states.

Sec. 4. Contributions by State Employees.—(a) Every
employee of the state whose services are covered by an
agreement entered into under section three shall be re-
quired to pay for the period of such coverage, into the
contribution fund established by section six, contribu-
tions, with respect to wages, as defined in section two of
this act, equal to the amount of tax which would be im-
posed by section one thousand four hundred of the fed-
eral insurance contributions act if such services consti-
tuted employment within the meaning of that act. Such
liability shall arise in consideration of the employee’s re-
tention in the service, or his entry upon such service, after
the enactment of this act.

(b) The contribution imposed by this section shall be
collected by the state by deducting the amount of the
contribution from wages as and when paid, but failure
to make such deduction shall not relieve the employee
from liability for such contribution.

(c) If more or less than the correct amount of the con-
tribution imposed by this section is paid or deducted with
respect to any remuneration, proper adjustments, or re-
fund if adjustment is impracticable, shall be made, with-
out interest, in such manner and at such times as the state
agency shall prescribe.

Sec. 5. Plans for Coverage of Employees of Political
Subdivisions and of State and Local Instrumentalities.—
(a) Each political subdivision of the state and each in-
strumentality of the state or of a political subdivision is
hereby authorized to submit for approval by the state
agency a plan for extending the benefits of title II of
the social security act, in conformity with applicable
federal law, to employees of any such political sub-
division or instrumentality. If not precluded by applic-
able federal law and under such conditions as the state
agency may by regulation prescribe, two or more such
political subdivisions or instrumentalities may, for the
purposes of this act, form a joint coverage unit and as
such submit for approval a joint plan if otherwise, because
of the requirements of the agreement entered into pur-
suant to section three or because of the requirements
imposed by or under applicable federal law, any sub-
division or instrumentality included in such unit would
be unable to submit an approvable plan. Each such plan
or any amendment thereof shall be approved by the
state agency if it finds that such plan, or such plan as
amended, is in conformity with such requirements as are
provided in regulations of the state agency, except that
no such plan shall be approved unless:
(1) It is in conformity with the requirements of the
applicable federal law and with the agreement entered
into under section three.
(2) It provides that all services which constitute em-
ployment as defined in section two and are performed in
the employ of the political subdivision or instrumentality,
or in the employ of any member of a joint coverage unit
submitting the plan, by any employees thereof, shall be
covered by the plan.
(3) It specifies the source or sources from which the
funds necessary to make the payments required by para-
graph (1) of subsection (c) and by subsection (d) are
expected to be derived and contains reasonable assur-
ance that such sources will be adequate for such pur-
pose.
(4) It provides for such methods of administration of
the plan by the political subdivision or instrumentality
or members of the joint coverage unit as are found by
the state agency to be necessary for the proper and
efficient administration of the plan.
(5) It provides that the political subdivision or instru-
mentality or members of the joint coverage unit will
make such reports, in such form and containing such
information, as the state agency may from time to time
require, and comply with such provisions as the state
agency or the federal agency may from time to time
find necessary to assure the correctness and verification
of such reports.
(6) It authorizes the state agency to terminate the plan
in its entirety or, in the discretion of the state agency, as
to any member of a joint coverage unit, if it finds that
there has been a failure to comply substantially with any
provisions contained in such plan, such termination to
take effect at the expiration of such notice and on such
conditions as may be provided by regulations of the
state agency and be consistent with applicable federal
law.

(b) The state agency shall not finally refuse to approve
a plan submitted under subsection (a), and shall not
terminate an approved plan, without reasonable notice
and opportunity for hearing to each political subdivision
or instrumentality affected thereby.

(c) (1) Each political subdivision or instrumentality
as to which a plan has been approved under this section
shall pay into the contribution fund, with respect to
wages, as defined in section two of this act, at such time
or times as the state agency may by regulation prescribe,
contributions in the amounts and at the rates specified
in the applicable agreement entered into by the state
agency under section three.

(2) Every political subdivision or instrumentality re-
quired to make payments under paragraph (1) of this
subsection is authorized, in consideration of the em-
ployee's retention in, or entry upon, employment after
enactment of this act, to impose upon its employees, as
to services which are covered by an approved plan, a
contribution with respect to wages, as defined in section
two of this act, not exceeding the amount of tax which
would be imposed by section one thousand four hundred
of the federal insurance contributions act if such services
constituted employment within the meaning of that act,
and to deduct the amount of such contribution from the
wages as and when paid. Contributions so collected shall
be paid into the contribution fund in partial discharge
of the liability of such political subdivision or instru-
mentality under paragraph (1) of this subsection. Fail-
ure to deduct such contribution shall not relieve the
employee or employer of liability therefor.

(d) Delinquent payments due under paragraph (1) of
subsection (c) may, with interest at the rate of six per
centum per annum, be recovered by action in a court of
competent jurisdiction against the political subdivision
or instrumentality liable therefor or may, at the request
of the state agency, be deducted from any other moneys
payable to such subdivision or instrumentality by any
department or agency of the state.

Sec. 6. Contribution Fund.—(a) There is hereby estab-
lished a special fund to be known as the contribution
fund. Such fund shall consist of and there shall be de-
posited in such fund: (1) All contributions, interest, and
penalties collected under sections four and five. (2) All
moneys appropriated thereto under this act. (3) All
moneys paid to the state pursuant to any agreement
entered into under section three (b) of this act. (4) Any
property or securities and earnings thereof acquired
through the use of moneys belonging to the fund. (5)
Interest earned upon any moneys in the fund. (6) All
sums recovered upon the bond of the custodian or other-
wise for losses sustained by the fund and all other
moneys received for the fund from any other source.
All moneys in the fund shall be mingled and undivided.
Subject to the provisions of this act, the state agency
is vested with full power, authority and jurisdiction over
the fund, including all moneys and property or securi-
ties belonging thereto, and may perform any and all
acts whether or not specifically designated, which are
necessary to the administration thereof consistent with
the provisions of this act.

(b) The contribution fund shall be established and held
separate and apart from any other funds or moneys of
the state and shall be used and administered exclusively
for the purpose of this act. Withdrawals from such fund
shall be made for, and solely for (A) payment of
amounts required to be paid to the federal agency pur-
suant to an agreement entered into under section three;
(B) payment of refunds provided for in section four (c)
of this act; and (C) refunds of overpayments, not other-
wise adjustable, made by a political subdivision or in-
strumentality.

(c) From the contribution fund the custodian of the
fund shall pay to the federal agency such amounts and
at such time or times as may be directed by the state
agency in accordance with any agreement entered into under section three and applicable federal law.

(d) The treasurer of the state shall be ex officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this act and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

(e) (1) There are hereby authorized to be appropriated biennially to the contribution fund, in addition to the contributions collected and paid into the contribution fund under sections four and five, to be available for the purposes of section six (b) and (c) until expended, such additional sums as are found to be necessary in order to make the payments to the federal agency which the state is obligated to make pursuant to an agreement entered into under section three.

(2) The state agency shall submit to the board of public works, at least ninety days in advance of the beginning of each regular session of the Legislature, an estimate of the amounts authorized to be appropriated to the contribution fund by paragraph (1) of this subsection for the next appropriation period.

Sec. 7. Rules and Regulations.—The state agency shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

Sec. 8. Studies and Reports.—The state agency shall make studies concerning the problem of old-age and survivors insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this act and shall submit a report to the Legislature at the beginning of each regular session, covering the administration and operation of this act during the preceding biennium, including such recommendations for amendments to this act as it considers proper.
Sec. 9. *Separability.*—If any provision of this act, or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 10. *Repeal.*—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

**CHAPTER 124**

*(Senate Bill No. 62—By Mr. Johnston, Mr. President)*

AN ACT to amend and reenact section three, article 5-a, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the maintenance and treatment of patients in state tuberculosis institutions.

[Passed February 15, 1949; in effect July 1, 1949. Approved by the Governor.]

**Article 5-a. Tuberculosis Control.**

Section 3. Maintenance and treatment of patients.

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

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

Section 3. *Maintenance and Treatment of Patients.*—The cost of maintenance and treatment of patients admitted to state tuberculosis institutions shall be paid out of funds appropriated for the respective institutions. No patient shall be required to pay for such maintenance and treatment, but the institutions are authorized to receive any voluntary payments therefor.
CHAPTER 125

(House Bill No. 191—By Mr. Schupbach and Mr. Wilkison)

AN ACT to amend and reenact section three, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the duties, bond, and residence of the warden of West Virginia penitentiary.

[Passed March 2, 1949; in effect from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section 3. Warden; duties; bond; residence.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Warden; Duties; Bond; Residence.—The warden shall be the chief executive officer of the penitentiary, and shall have charge of its internal police and management, and provide for feeding, clothing, working and taking care of the convicts, subject to the control of the state board of control. The warden shall promptly enforce all orders, rules and regulations made by the board of control, enforce strict discipline among the convicts, protect and preserve the property of the state, and may for that purpose punish the convicts, or cause them to be punished, in the manner authorized by the board of control. He shall have the custody and control of all the real and personal property at the penitentiary, subject to the orders of the board of control. The warden shall give bond in such sum as the board of control may require, with one or more sureties satisfactory to the board of control, conditioned for the faithful performance of the duties of his office, and for accounting for and paying over, as required by law, all moneys which may come into his hands by virtue of such office, which bond, when approved by the board of control, shall be filed
with and recorded by the treasurer of such board. The warden shall reside in the warden’s apartments at the penitentiary, or at any other place in Marshall county, convenient to the penitentiary, but shall not, by reason of such residence, be entitled to vote in Marshall county.

CHAPTER 126

(House Bill No. 391—By Mr. File)

AN ACT to amend and reenact section one, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the tax commissioner, and authorizing the attorney general, upon the request of the tax commissioner, to select and appoint an assistant attorney general, to perform, under the supervision and direction of the attorney general, such duties as may be required of him by the tax commissioner.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]


Section 1. Tax commissioner; appointment of assistant attorney general to perform duties of commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Tax Commissioner; Appointment of Assistant Attorney General to Perform Duties of Commissioner.—

There shall be a tax commissioner who shall be appointed by the governor, by and with the advice and consent of the senate. The tax commissioner in office when this code takes effect shall, unless sooner removed, continue to serve until his term expires, and his successor has been appointed and has qualified. On or before the first day of March, one thousand nine hundred thirty-five, and on
or before the first day of March of each sixth year there-
after, the governor shall appoint a tax commissioner for
a term of six years, commencing on said first day of
March. The person so appointed shall take the oath or
affirmation prescribed by section five of article four of
the constitution. He shall give bond with good security,
to be approved by the governor, in the penalty of five
thousand dollars. The salary of the tax commissioner shall
be eight thousand dollars a year. He shall be repaid his
actual disbursements for traveling expenses. He shall be
provided with an office in the capitol, and with such fur-
niture and clerical assistance as shall be necessary.
The tax commissioner, if he deem such action neces-
sary, may request the attorney general to appoint an as-
sistant attorney general, who shall perform, under the
supervision and direction of the attorney general, such
duties as may be required of him by the tax commissioner.
The attorney general, in pursuance of such request, may
select and appoint an assistant attorney general, to serve
during the will and pleasure of the attorney general, and
such assistant shall receive a salary not in excess of six
thousand dollars per annum, to be paid out of any funds
made available for that purpose by the Legislature to the
office of the tax commissioner.

CHAPTER 127
(Senate Bill No. 48—By Mr. Reed)

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 compen-
sation of county assessors.

(Passed March 12, 1949; 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 fifty-three, be in the amounts set forth in sections one-(one) to one-(fifty-five), inclusive, of this article.

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

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

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

Sec. 5-(4). Braxton County.—For the county of Braxton, two thousand three hundred dollars.

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

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

Sec. 5-(7). Calhoun County.—For the county of Calhoun, one thousand two hundred dollars.

Sec. 5-(8). Clay County.—For the county of Clay, one thousand seven hundred dollars.

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

Sec. 5-(10). Fayette County.—For the county of Fayette, not less than four thousand two hundred dollars nor more than four thousand eight hundred dollars, to be fixed by the county court.
Sec. 5-(11). Gilmer County.—For the county of Gilmer, 2 one thousand eight hundred dollars.

Sec. 5-(12). Grant County.—For the county of Grant, 2 one thousand five hundred dollars.

Sec. 5-(13). Greenbrier County.—For the county of 2 Greenbrier, two thousand dollars.

Sec. 5-(14). Hampshire County.—For the county of 2 Hampshire, one thousand seven hundred dollars.

Sec. 5-(15). Hancock County.—For the county of Han- 2 cock, three thousand dollars.

Sec. 5-(16). Hardy County.—For the county of Hardy, 2 two thousand dollars.

Sec. 5-(17). Harrison County.—For the county of Harri- 2 son, four thousand dollars.

Sec. 5-(18). Jackson County.—For the county of Jack- 2 son, one thousand five hundred dollars.

Sec. 5-(19). Jefferson County.—For the county of Jeff- 2 ferson, two thousand six hundred dollars.

Sec. 5-(20). Kanawha County.—For the county of Ka- 2 nawha, five thousand dollars.

Sec. 5-(21). Lewis County.—For the county of Lewis, 2 two thousand six hundred dollars.

Sec. 5-(22). Lincoln County.—For the county of Lin- 2 coln, two thousand three hundred dollars.

Sec. 5-(23). Logan County.—For the county of Logan, 2 four thousand dollars.

Sec. 5-(24). Marion County—For the county of Marion, 2 three thousand six hundred dollars.

Sec. 5-(25). Marshall County.—For the county of Mar- 2 shall, three thousand dollars.

Sec. 5-(26). Mason County.—For the county of Mason, 2 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 six hundred dollars.

Sec. 5-(30). *Mingo County.*—For the county of Mingo, four thousand 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, not less than one thousand two hundred dollars nor more than one thousand eight hundred dollars, to be fixed by the county court.

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, 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, three thousand dollars.
Sec. 5-(43).  **Ritchie County.**—For the county of Ritchie, two thousand 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, two thousand two 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, three thousand two 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.
AN ACT to amend and reenact sections two, six-b, six-c and six-d, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to tax levies under the tax limitation amendment.

[Passed February 23, 1949; in effect from passage. Approved by the Governor.]

Article 8. Levies.
Section
  2. Legislative findings.
  6-b. Maximum levies on each classification by county courts; order of levies.
  6-c. Maximum levies on each classification by county boards of education; order of levy.
  6-d. Maximum levies on each classification by municipalities; order of levy.

Be it enacted by the Legislature of West Virginia:

That sections two, six-b, six-c and six-d, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 2. Legislative Findings.—The Legislature, having carefully analyzed the fiscal affairs of the state and its political subdivisions with particular reference to the reduction of the outstanding bonded debt of political subdivisions incurred prior to the adoption of the tax limitation amendment, finds:

(1) That the total outstanding bonded indebtedness of subdivisions of the state incurred prior to the adoption of the tax limitation amendment has been reduced since the year one thousand nine hundred thirty-nine—one thousand nine hundred forty, by approximately sixty-five per cent and the annual requirements of service upon bonded debt have been reduced by completed amortizations from slightly less than six million five hundred
thousand dollars in that year, to approximately two mil-
ion three hundred thousand dollars for the fiscal year
beginning on the first day of July, one thousand nine
hundred forty-nine, according to findings certified to the
Legislature by the state sinking fund commission.

(2) That it is therefore now possible to adjust the allo-
cation of levies to redistribute so much of the rates pre-
viously allocated for debts incurred prior to the adoption
of the tax limitation amendment as represent debts com-
pletely liquidated, so as to meet the increased levying
requirements of county courts, boards of education, and
municipalities, and that such adjustment is in keeping
with sound finance, the preservation of local fiscal re-
sponsibility for local services, and the intention of the tax
limitation amendment.

Sec. 6-b. Maximum Levies on Each Classification by
County Courts; Order of Levies.—County courts are here-
by authorized to lay not in excess of the following maxi-


un levies, for the purposes specified and in the follow-
ing order:

(1) With respect to the county as a whole for the pay-
ment of (a) interest and sinking fund requirements for
bonded indebtedness incurred prior to the adoption of
the tax limitation amendment; and to the extent not so
required, (b) other legally incurred contractual indebted-
ness, not bonded, if any, incurred prior to the adoption
of the tax limitation amendment, of the county as follows:
On class I property, twenty-five one-hundredths of one
cent; on class II property, one-half of one cent and on
classes III and IV property, one cent.

(2) With respect to a magisterial or special taxing dis-


trict for which the county court is required to lay the
levy, for the payment of (a) interest and sinking fund
requirements for bonded indebtedness, incurred prior to
the adoption of the tax limitation amendment; and to the
extent not so required, (b) other legally incurred con-
tractual indebtedness not bonded, if any, incurred prior
to the adoption of the tax limitation amendment, as fol-
lows: On class I property, two and fifteen one-hundredths
cents; on class II property, four and three-tenths cents;
and on classes III and IV property, eight and six-tenths cents.

(3) For general county current expense, as follows:
On class I property, eleven and nine-tenths cents; on class II property, twenty-three and eight-tenths cents; and on classes III and IV property, forty-seven and six-tenths cents. But in a county where the total assessed valuation of all classes of property is less than six million dollars, the county court may, with the prior written approval of the tax commissioner, exceed the rates of levy for general county current expense by not more than twenty-five per cent of the rates specified.

Sec. 6-c. Maximum Levies on Each Classification by County Boards of Education; Order of Levy.—County boards of education are hereby authorized to lay not in excess of the following maximum levies, for the purposes specified and in the following order:

(1) With respect to a magisterial, independent or other school district existing in a county prior to May twenty-second, one thousand nine hundred thirty-three, or any special taxing district for which the board of education is required to lay the levy, for the payment of (a) interest and sinking fund requirements for bonded indebtedness incurred prior to the adoption of the tax limitation amendment; and to the extent not so required, (b) other legally incurred contractual indebtedness not bonded, if any, incurred prior to the adoption of the tax limitation amendment, as follows: On class I property, thirty-five one-hundredths of one cent; on class II property, seven-tenths of one cent; and on classes III and IV property, one and four-tenths cents.

(2) For either or both of (a) the permanent improvement fund and (b) the payment of interest and sinking fund requirements for bonded indebtedness incurred subsequent to the adoption of the tax limitation amendment, as follows: On class I property, one and five-tenths cents; on class II property, three cents; and on classes III and IV property, six cents.

(3) For the general current expenses of schools, as follows: On class I property, twenty-one and one-tenth
29 cents; on class II property, forty-two and two-tenths cents; and on classes III and IV property, eighty-four and four-tenths cents. But if the tax commissioner has approved the levy of an additional amount for the general current expenses of the county as authorized by section six-b, subsection three, the amount of the levy authorized for boards of education by this subsection shall be reduced by the tax commissioner to that extent.

If the rates of levy under (2) above are not required in whole or in part for the purposes for which they are allocated by this section, the county board of education may, with the prior written approval of the state board of school finance, created by section three, article nine-b, chapter eighteen of the code, as amended, lay such rates of levy or portion thereof not so required, for the general current expenses of schools.

Sec. 6-d. Maximum Levies on Each Classification by Municipalities; Order of Levy.—The governing body of a municipality is hereby authorized to lay not in excess of the following maximum levies, for the purposes specified, and in the following order:

(1) For the payment of (a) principal and interest upon bonded indebtedness incurred prior to the adoption of the tax limitation amendment; and to the extent not so required, (b) other legally incurred contractual indebtedness, not bonded, if any, incurred prior to the adoption of the tax limitation amendment, as follows: On class I property, one and five-tenths cents; on class II property, three cents; and on class IV property, six cents.

(2) For general current expense purposes, as follows: On class I property, eleven cents; on class II property, twenty-two cents; and on class IV property, forty-four cents.

CHAPTER 129
(Senate Bill No. 40—By Mr. Love)

AN ACT to amend and reenact section nine, article eleven, chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, pertaining to the lien of the state of West Virginia for inheritance taxes.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Article 11. Inheritance and Transfer Taxes.

Section 9. Lien for tax.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Lien for Tax.—All such taxes upon any transfer and the interest that may accrue thereon, shall, until paid, be and remain a charge and lien upon the property transferred, superior to any lien created after such transfer, and no title shall vest or be transferred as to any such property, except subject to the lien for such taxes, and no such property shall be transferred or delivered, in whole or in part, until the payment into the treasury of the state of the amount of such tax. The person to whom the property is transferred, if he shall receive the same before the tax thereon is paid, and the executors, administrators and trustees having charge of every estate so transferred, shall be personally liable for such tax and interest until its payment: Provided, however, That such lien shall not be enforceable after the expiration of ten years from and after the death of the decedent, whose property is subject to tax under the provisions of this article: Provided further, That the limitation of ten years prescribed by this section shall not be construed to apply to any suit or proceeding now pending and undetermined, commenced prior to the effective date of this act, for the enforcement of any such lien otherwise legally enforceable but for said limitation.
CHAPTER 130
(Senate Bill No. 206—By Mr. Eddy)

AN ACT to amend and reenact section eighty-six-a, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the limitation on institution of proceedings to set aside sales in prior suits to enforce payment of corporate license taxes.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]

Article 12. License Taxes.

Section 86-a. Limitation on institution of proceedings to set aside sales in prior suits.

Be it enacted by the Legislature of West Virginia:

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

Section 86-a. Limitation on Institution of Proceedings to Set Aside Sales in Prior Suits.—No suit or proceeding shall be instituted in any court of this state on and after the first day of January, one thousand nine hundred and fifty, for the purpose of setting aside the sale of all or any of the assets of any corporation heretofore sold by order of the court in any former suit instituted under the preceding section on the ground that process was served on the auditor or that service thereof was accepted by him.

CHAPTER 131
(Senate Bill No. 152—By Mr. Johnston, Mr. President)

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 by chapter one hundred fifty-four, acts of the Legisla-

Section 3. Amount, measure and lien of tax; notice of discontinuance 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 by chapter one hundred fifty-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 3. Amount, Measure and Lien of Tax; Notice of Discontinuance 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 be equivalent to five cents per gallon thereof, and shall be paid as hereinafter provided.

A distributor shall use as the measure of the tax the gallonage produced, purchased, sold or used in this state (as provided in section four of this article). Gallonage shall be included in the measure of the tax by refiners and producers when such gallonage has been placed into any tank from which withdrawals are made for sales or transfer to any other person.

An importer shall use as the measure of the tax the gallonage purchased and received for whatever use (as provided in section six of this article).

A retail dealer shall use as the measure of the tax the gallonage purchased or obtained by him (as provided in section five of this article).

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 gaso-
line. 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 per-
sonal 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, with-
out 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 Legis-
lature, 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 dis-
continuance, sale or transfer of the business of such dis-
tributor, 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. 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, notwith-
standing such provisions, become due and payable con-
currently 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 sur-
render 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 shall be liable to the state of West Virginia for the amount of all taxes and penalties, under this article accrued against such distributor, importer or retail dealer so selling or transferring his business, on the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired from such distributor, importer or retail dealer.

Sec. 22. Taxes to be Used for Road Purposes.—All taxes collected under the provisions of this article shall be paid into the state treasury and shall be used only for the purpose of the construction, reconstruction, maintenance and repair of roads and highways, and for the payment of the interest and sinking fund on state bonds issued for road purposes. Unless necessary for such bond requirements, one-fifth of the taxes collected under the provisions of this article shall be used for secondary road purposes.

CHAPTER 132

(House Bill No. 52—By Mr. Nuzum and Mr. Ellis)

AN ACT to amend and reenact section thirteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unlawful actions of licensee under the nonintoxicating beer law and prescribing penalties therefore.

[Passed February 23, 1949; in effect from passage. Approved by the Governor.]


Section

13. Unlawful acts of licensees; penalties.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article sixteen, chapter eleven of the
TAXATION

Section 13. Unlawful Acts of Licensees; Penalties.—

It shall be unlawful:

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

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

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

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

(e) For any brewer or distributor to give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail, or to offer any prize, premium, gift, or similar inducement, except advertising matter of nominal value, to either trade or consumer buyers;

(f) For any licensee to transport, sell, deliver or purchase any nonintoxicating beer or product of the brewing industry upon which there shall appear a label or other informative data which in any manner refers to the alcoholic content of such beer or product of the brewing
industry, or upon the label of which there appears the
word or words “strong”, “full strength”, “extra strength”,
“prewar strength”, “high test” or other similar expressions
bearing upon the alcoholic content of such product of
the brewing industry, or which refers in any manner to
the original alcoholic strength extract or balling proof
from which such beverage was produced, except that
such label shall contain a statement that the alcoholic
content thereof does not exceed three and two-tenths per
cent by weight;

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

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

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

(j) For any licensee to manufacture, import, sell, trade,
barter, possess, or acquiesce in the sale, possession or
consumption of any alcoholic liquors on the premises
covered by such license or on premises directly or indi-
directly used in connection therewith;

(k) For any licensee to print, paint or place upon the
door, window, or in any other public place in or about
the premises, the word “saloon” or word of similar char-
acter or nature, or for the word “saloon” or similar words
to be used in any advertisement by the licensee;

(l) For any retail licensee to sell or dispense nonin-
toxicating beer purchased or acquired from any source
other than a licensed distributor or brewer under the laws
of this state;

(m) For any licensee to permit loud, boisterous or dis-
orderly conduct of any kind upon his premises or to
permit the use of loud musical instruments if either or
any of same may disturb the peace and quietude of the
community wherein such business is located. Provided, that no juke box or other musical instrument of like character shall be played or operated between the hours of midnight and seven o'clock the following morning on week days or before one o'clock in the afternoon of any Sunday: And provided further, That no licensee shall have in connection with his place of business any loud speaker located on the outside of the licensed premises that broadcasts or carries music of any kind.

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

(o) For any distributor to sell, possess for sale, transport or distribute nonintoxicating beer except in the original container;

(p) For any licensee to permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

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

Any person who violates any provision of this article or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful, shall be guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or imprisoned in the county jail for not less than thirty days or more than six months, or by both fine and imprisonment in the discretion of the court. Justices of the peace shall have concurrent jurisdiction with the circuit court, and any other courts having criminal jurisdiction in their county, for the trial of all misdemeanors arising under this article.
AN ACT to amend and reenact sections seventeen, twenty-four, twenty-eight, twenty-nine, thirty-four and thirty-six, 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 5, 1949; in effect from passage. Approved by the Governor.)


Section
17. Compensation of deputy commissioner; court costs.
24. Sale by deputy commissioner; receipt for purchase price; report to circuit court.
28. Right of former owner to surplus proceeds.
29. Right of creditor of former owner of escheated land.
34. Redemption by persons under disability.
36. Sheriff to keep proceeds in separate accounts; disposition.

Be it enacted by the Legislature of West Virginia:

That sections seventeen, twenty-four, twenty-eight, twenty-nine, thirty-four and thirty-six, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 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 the one dollar fee provided for in a former law for each tract certified to the circuit court of his county prior to March 8, 1947. In addition thereto he shall receive a commission of ten per cent on each sale or redemption. Such commission on sales shall be based on the sale price and in the case of redemption on the total taxes and interest due. Such compensation shall be collected from the redemptor as provided for in section eighteen of this article. Such compensation, together with a charge of one dollar payable
to the clerk of the circuit court for each item 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 other-
wise provided in this article, no other costs shall be
taxed.

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 the fact to the court,
and the court may order that such land be sold at a subse-
quent sale with or without additional advertising.

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 thirty days after the
sale, be filed with the clerk of the circuit court.

Sec. 28. Right of Former Owner to Surplus Proceeds.—
The former owner of any forfeited or delinquent lands,
his heirs or assigns, shall be entitled to the surplus
received from the sale over and above the taxes and in-
terest charged or chargeable thereon including all court
costs in the suit in which such land was sold, if his, or
their claim be filed in the circuit court that decreed the
sale, within two years after the date of confirmation of
said sale. If no claim is filed with the court within the
two years, then such surplus shall be paid by the sheriff
to the auditor for credit to the general school fund.
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Sec. 29. Right of Creditor of Former Owner of Escheatted Land.—Any surplus proceeds arising from the sale of escheatted land, after the payment of all court costs in the suit in which such land was sold, may be applied for by the creditors of the decedent if application is made to the circuit court that decreed the sale within one year after the date of confirmation of said sale. Upon proper application to the court within such time 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 such surplus, due preference shall be given to lien creditors. Any part of such surplus thereafter remaining shall be paid by the sheriff to the auditor for credit to the general school fund.

Sec. 34. Redemption by Persons Under Disability.—In addition to and not withstanding any other provisions of this article, any infant or insane person, the former owner of any 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.

Any forfeited land, or any interest therein sold under the provisions of this article owned at the time of the forfeiture by an infant, married woman or insane person, may be redeemed by such owner until the expiration of three years after the removal of such disability as is provided in section six, article thirteen of the constitution of this state, provided such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

Sec. 36 Sheriff to Keep Proceeds in Separate Accounts; Disposition.—The sheriff shall keep in a separate 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) Surplus proceeds from the sale of delinquent, forfeited and escheated lands shall be held by the sheriff for the periods provided for in sections twenty-eight and twenty-nine of this article, and if no application is made to the circuit court within the time therein specified, such surplus shall be paid to the auditor for credit to the general school fund. (7) 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 semi-annually; and those credited to the various local taxing units shall be transferred semi-annually 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.

CHAPTER 134
(Senate Bill No. 276—By Mr. Eddy)

AN ACT to amend and reenact sections twelve and thirty-six, 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 11, 1949; in effect from passage. Approved by the Governor.]


Section
12. Service of process by publication.
36. Sheriff to keep proceeds in separate accounts; disposition.

Be it enacted by the Legislature of West Virginia:

That sections twelve and thirty-six, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 12. Service of Process by Publication.—Upon the institution of a suit as provided in section ten of this
article, the clerk of the circuit court shall enter an order
of publication, without the filing of any affidavit by the
deputy commissioner as required in other cases. Such or-
der 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 de-
linquent and sold, or escheated, as the case may be, and
the names of such other defendants as may be interested
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 suc-
cessive weeks in two newspapers of opposite politics pub-
lished in the county, if such there be; otherwise, this re-
quirement 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 required,
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 here-
inafter provided.

In view of the fact that the state has absolute title to all
forfeited land, to all land sold to the state for nonpayment
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 thereto 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 exp-
edient and necessary to provide that failure to name any
such person as a 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; and in view of the fact
that the supreme court of appeals in a decision just ren-
dered has held that there is no constitutional require-
ment that the former owner or any other interested person be
personally served with process in a suit for the sale
for the benefit of the school fund of lands that are and
must be the absolute property of the state; and in view
of the further fact that in its last previous enactment of
this section the Legislature had no intention of requiring
that personal service of process on named defendants in
such a suit should be a mandatory condition precedent to
the validity of any step or proceeding in such suit, but on
the contrary expressly stated that failure to serve the
summons on any named defendant should in no wise
affect the validity thereof; now therefore, the Legislature
also deems it both expedient and necessary to provide
that the failure to obtain such personal service on any
named defendant in any suit instituted under the provi-
sions of this article prior to the effective date hereof shall
in no way affect the validity of any step or proceeding
in any such suit or the validity of the title acquired by the
purchaser of land sold under any decree made or to be
made in any such suit.

Sec. 36. Sheriff to Keep Proceeds in Separate Accounts;
Disposition.—The sheriff shall keep in a separate 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 deputy commissioner, such part of the court costs as represents compensation due him under the provisions of section seventeen of this article. (3) To the auditor, such part as represents any charges which were paid by or which are payable to him. (4) To the general county fund, such part as represents costs paid out of such fund for publishing the sheriff's delinquent and sales list. (5) Surplus proceeds from the sale of delinquent, forfeited and escheated lands shall be held by the sheriff for the periods provided for in sections twenty-eight and twenty-nine of this article, and if no application is made to the circuit court within the time therein specified, such surplus shall be paid to the auditor for credit to the general school fund. (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 and to the deputy commissioner shall be paid to them quarterly; those credited to the auditor shall be paid to him semi-annually; and those credited to the various local taxing units shall be transferred semi-annually 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.

CHAPTER 135

(Senate Bill No. 124—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact sections three, four, five and seven, article one; sections one, six and seventeen, article two; section one, article three; sections seven, ten, ten-a, ten-b, seventeen and nineteen, article five; sections four, nine, ten and eleven, article six; sections eight, nine, ten, fifteen and seventeen, article seven; sections one and five, article eight; sections one, three, five-a and eight, article nine; section ten, article ten; to add section four-a to article five, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature second extraordinary session, one thousand nine hundred thirty-six, as amended, relating to unemployment compensation.

[Passed February 25, 1949; in effect June 30, 1949. Approved by the Governor]

Article

2. The Director of Employment Security.
4. Employer Coverage and Responsibility.
5. Employee Eligibility; Benefits.
8. Employment Security Administration Funds.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five and seven, article one; sections one, six and seventeen, article two; section one, article three; sections seven, ten, ten-a, ten-b, seventeen and nineteen, article five; sections four, nine, ten and eleven, article six; sections
eight, nine, ten, fifteen and seventeen, article seven; sections one and five, article eight; sections one, three, five-a and eight, article nine; section ten, article ten; to add section four-a to article five, 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:


Section 3. Definitions.—As used in this chapter, unless the context clearly requires otherwise:

1. "Administration fund" means the employment security 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. "Base period" means the first four out of the last five completed calendar quarters immediately preceding the first day of the individual's benefit year.
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 consecutive calendar months ending on March thirty-one, June thirty, September thirty, or December thirty-one, or the equivalent thereof as the director may by regulation prescribe. “Computation date” means June thirty of the year immediately preceding the January one, on which an employer’s contribution rate becomes effective. “Director” means the employment security director. “Employing unit” means an individual, or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, corporation (domestic or foreign), or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has on January first, one thousand nine hundred thirty-five, or subsequent thereto, had in its employ one or more individuals 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 employer 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
(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; or (c) the service is performed both within or 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 of the law).
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 payments required of such instrumentalities with respect to such year shall be refunded by the director from the fund in the same manner and within the same period as is provided in section nineteen of article five of this 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 com-
pensation 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 benefit under this chapter. Such agreements shall become effective ten days after such publications 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 water 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 or that may be voluntarily paid into the state unemployment compensation fund as provided in article five of this chapter.

"Separated from employment" means, for the purposes of this chapter, the total severance whether by quitting, discharge, or otherwise, of the employer-employee relationship.

"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 employment shall be deemed to be partially unemployed in any week in which due to lack of work 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 six 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 remuneration equal to three thousand dollars has been paid to an individual by an employer with respect to employment 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 calendar 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; and 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 compensation law of such other state or states shall be included as a part of the remuneration equal to three thousand dollars herein referred to.

(2) The amount of any payment made to, or on behalf of, an individual in its employ (without deduction from the remuneration of the individual in its employ), under a plan or system established by an employer which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, 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 payment or if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive such consideration in lieu of such benefit, either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy or of insurance of his 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 train-
ing 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 em-
ploying unit, if accounted for and reported to such em-
ploying unit.

The reasonable cash value of remuneration in any med-
ium 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 ac-
cordance 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.

Sec. 4. Department of Employment Security.—There
is created a department of employment security, com-
posed of a division of unemployment compensation and
a division of employment service, and such other divisions
or units as the director determines to be necessary.

Sec. 5. Federal-State Cooperation.—The department
shall cooperate with the social security administration of
the federal government, similar agencies of the several
states, and such other agencies as are concerned with the
problem of employment security and public assistance
and relief.

Sec. 7. Employment Agencies Transfer.—The "State
Public Employment Agency" now maintained in the de-
partment of labor shall be transferred on January one,
one thousand nine hundred thirty-seven, and shall be
made the state employment service division of the de-
partment of employment security.

Article 2. The Director of Employment Security.

Section 1. Appointment.
17. Federal-state cooperation.

Section 1. *Appointment.*—The department shall be in charge of a director of employment security. The director shall be appointed by the governor, by and with the advice and consent of the senate, for a term of six years and shall hold his office subject to the will and pleasure of the governor.

Sec. 6. *Powers and Duties.*—The director shall be the executive and administrative head of the department and shall have the power and duty, to:

1. Exercise general supervision of and make regulations for the government of the department.

2. Prescribe uniform rules pertaining to investigations, departmental hearings, and promulgate rules and regulations.

3. Supervise fiscal affairs and responsibilities of the department.

4. Prescribe the qualifications of, appoint, remove, and fix the compensation of the officers and employees of the department, subject to the provisions of section ten, article four of this chapter, relating to the board of review.

5. Organize and administer the department so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal legislation.

6. Make reports in such form and containing such information as the federal social security administration may from time to time require, and comply with such provisions as the federal social security administration may from time to time find necessary to assure the correctness and verification of such reports.

7. Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter.
(8) Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department.

(9) Sign and execute in the name of the state, by “The State Department of Employment Security,” any contract or agreement with the federal government, its agencies, other states, their subdivisions, or private persons.

(10) Prescribe a salary scale to govern compensation of appointees and employees of the department.

(11) Make the original determination of right in claims for benefits.

(12) Make recommendations, and an annual report to the governor concerning the condition, operation, and functioning of the department.

(13) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this chapter.

(14) Exercise any other power necessary to standardize administration, expedite departmental business, assure the establishment of fair rules and regulations and promote the efficiency of the service.

Sec. 17. Federal-State Cooperation.—The director shall have all powers and duties necessary to secure to the state the benefits of congressional action for the promotion and maintenance of a system of public employment offices. To this end the provisions of the act referred to in the preceding section and such additional congressional action consistent with the above act are accepted by the state and the state pledges its observance and compliance therewith.

The department of employment security is designated the agent of this state for the purpose of compliance with the act of congress entitled “An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such systems, and for other purposes,” approved June six, one thousand nine hundred thirty-three, as amended.

The director is also authorized, with the approval of the advisory council, to apply for an advance to the un-
19 employment compensation fund in accordance with the
20 conditions specified in title twelve of the social security
21 act, as amended, in order to secure to this state and its
22 citizens the advantages available under the provisions of
23 that title.

Article 3. Advisory Council.

Section
1. Creation.

Section 1. Creation.—There is hereby created in the
2 department of employment security a "State Advisory
3 Council" composed of six members.

Article 5. Employer Coverage and Responsibility.

Section
4-a. Voluntary payments.
7. Separate accounts.
10. Experience ratings; decreased rates.
10-a. Suspension of decreased rates.
10-b. Transfer of business.
17. Interest on past-due payments.

Sec. 4-a. Voluntary Payments.—An employer may make
2 voluntary payments under such regulations as the di-
3 rector may prescribe, in addition to the required pay-
4 ments, and such voluntary payments shall be credited
5 to the employer's account in the same manner and under
6 the same conditions as the required payments. Any pay-
7 ment so made shall not be considered a prepayment of
8 any future payment required nor can such payment be
9 refunded under any condition.

Sec. 7. Separate Accounts.—(1) The director shall
2 maintain a separate account for each employer, and shall
3 credit his account with all contributions heretofore and
4 hereafter paid by him. Nothing in this chapter shall be
5 construed to grant any employer or individual in his
6 service prior claims or rights to the amounts paid by
7 him into the fund, either on his own behalf or on behalf
8 of such individuals. The account of any employer which
9 has been inactive for a period of four consecutive cal-
10 endar years shall be terminated for all purposes.
11 (2) Benefits paid to an eligible individual for total or
12 partial unemployment occurring in any benefit year be-
ginning after June thirty, one thousand nine hundred forty-nine, shall be charged to the account of the last employer with whom he has had as much as three weeks of continuous employment: Provided, That no employer's account will be charged with benefits paid to any individual who has been separated from noncovered employment in which he was employed as much as three weeks.

(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 seventenths 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 when the time for filing any report or making any payment required hereunder falls on Saturday, Sunday, or a legal holiday the due date shall be deemed to be the next succeeding business day: 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 account 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
annual pay roll, in which case his rate shall be nine-
tenhs 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-
tenhs of one per cent.

(9) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least twelve per cent of his average
annual pay roll, in which case his rate shall be five-tenths
of one per cent.

(10) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least thirteen and five-tenths per
cent of his average annual pay roll, in which case his
rate shall be one-tenth of one per cent.

(11) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least fourteen per cent of his average
annual pay roll, in which case his rate shall be zero.

The director shall determine an employer's compli-
ance with these requirements.

After the director is satisfied that an employer has
complied with these requirements he shall decrease
the employer's rate to the next lower rate if the fund,
including the trust fund, clearing account, and benefit
account, is as much as eighty million dollars on the
computation date, and shall decrease the employer's rate
one additional step if the fund is as much as ninety
million dollars on the computation date, and shall de-
crease the employer's rate one additional step for each
five million dollars that the fund is above ninety million
dollars up to and including one hundred fifteen million
dollars on the computation date.
Sec. 10-a. Suspension of Decreased Rates.—(1) If at any time or times the unemployment compensation fund, including the trust fund, clearing account, and benefit account, falls below the sum of fifty million dollars, the director shall, effective at the commencement of the next calendar quarter, suspend the decreased rates as provided in this chapter, and all contributions of employers due thereafter shall be paid at the rate of two and seven-tenths per cent.

(2) As of January first of the year next following the date on which the unemployment compensation fund, including the trust fund, clearing account, and benefit account, reaches the sum of fifty-five million dollars, the director shall supersede such suspension.

Sec. 10-b. Transfer of Business.—If a subject employer shall transfer his entire organization, trade or business, or substantially all the assets thereof, to another employer, the director shall combine the contribution records and the benefit experience records of the transferring and acquiring employers. The acquiring employer's contribution rate for the remainder of the calendar year shall not be affected by the transfer but such rate shall apply to the whole of his business, including the portion acquired by the transfer, through the following December thirty-first. If a subject employer shall make such transfer to an employing unit which is not an employer on the date of the transfer, such subject employer's rate shall continue as the rate of the acquiring employing unit until the next effective rate date. If an employing unit acquires simultaneously the entire organization, trade or business, or substantially all the assets thereof, of two or more covered employers, the successor shall be assigned as a contribution rate the then current rate of the transferring employer which had, in the calendar quarter immediately preceding the date of the transfer, the higher or highest pay roll. As to any transfers which occur prior to July thirty-first of the current calendar year such rate shall remain effective for the balance of that calendar year: Provided, however, That if the transfers occur subsequent to July
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... thirty-first such rate shall remain effective for the balance of that calendar year and the rate for the succeeding calendar year shall, notwithstanding anything to the contrary provided in section seven of article five of this chapter, be recomputed on the basis of the combined experience of the transferring employers as of July thirty-first of the year in which the transfers occur. In case the transferring employer is delinquent in the payment of contributions or interest thereon the acquiring employer shall not be entitled to any benefit of the contribution record of the transferring employer unless payment of such delinquent contributions and interest thereon is assumed by the acquiring employer. The director shall upon joint request of the transferor and transferee furnish the transferee a statement of the amount of any contribution and interest due and unpaid by the transferor. A statement so furnished shall be controlling for the purposes of the foregoing proviso.

Sec. 17. Interest on Past-due Payments.—Payments unpaid on the date on which due and payable, as prescribed by the director, shall bear interest at the rate of one per cent per month until payment plus accrued interest is received by the director. Interest collected pursuant to this section shall be paid into the employment security special administration fund.

Sec. 19. Refunds.—Within two years after the date on which payment of contribution, or interest thereon, is made, an employer, who has paid such payment or interest, may make application for:

(1) An adjustment thereof in connection with subsequent payments.
(2) A refund thereof if adjustment cannot be made. If the director determines that payments and interest were erroneously collected, he shall make the adjustment, without interest, in connection with subsequent payments of the employer, or if such adjustment cannot be made, refund the amount of the payments erroneously collected, without interest, from the clearing account of the unemployment compensation fund, and...
the amount of the interest erroneously collected, from
the employment security special administration fund.
For like cause and within the same period the director,
on his own initiative, may make an adjustment or refund:
Provided, That nothing in this chapter shall be construed
as permitting a cash refund of any contribution required
under the law in effect when such contribution became
due.

Article 6. Employee Eligibility; Benefits.

Section
4. Disqualification for benefits.
9. Place of payment.
10. Benefit rate; total unemployment.
11. Benefit rate; partial unemployment.

Section 4. Disqualification for Benefits.—Upon the de-
termination 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 un-
der 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 disqualifica-
tion shall carry a reduction in the maximum benefit
amount equal to six times the individual's weekly bene-
fit rate. However, if the claimant returns to work in
covered employment during his benefit year the maxi-
mum 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 suit-
able 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 an 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 sub-section 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 total 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, from and after receipt by him of his first payment for such benefits.

(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, parental 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 each week in which he is unemployed because of his request or that of his duly authorized agent for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

(9) 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. 9. Place of Payment.—Benefits shall be paid through employment offices or, if the director by rules so prescribes, through employment security offices, in accordance with such regulations as the director shall prescribe.

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 other-
wise provided under the term "total and partial un-
employment" 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 six dollars as a result of odd job or
subsidiary work in any benefit week shall be paid bene-
fits for such week in accordance with the provisions of
this chapter pertaining to benefits for partial unemploy-
ment. The provisions of sections ten and eleven of this
article shall apply to all benefit weeks occurring in
benefit years beginning after the effective date of this
act; for benefit weeks occurring in benefit years prior
thereto the provisions then in effect shall apply.

<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 in Benefit Year for Total and/or Partial Unemployment (Col. D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Under $300.00 to $399.99</td>
<td>Ineligible</td>
<td>$184.00</td>
</tr>
<tr>
<td>2</td>
<td>400.00 to 499.99</td>
<td>$8.00</td>
<td>$207.00</td>
</tr>
<tr>
<td>3</td>
<td>500.00 to 599.99</td>
<td>$9.00</td>
<td>$230.00</td>
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<td>4</td>
<td>600.00 to 699.99</td>
<td>$10.00</td>
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<td>5</td>
<td>700.00 to 799.99</td>
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</tr>
<tr>
<td>6</td>
<td>800.00 to 899.99</td>
<td>$12.00</td>
<td>$322.00</td>
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<tr>
<td>7</td>
<td>900.00 to 999.99</td>
<td>$13.00</td>
<td>$299.00</td>
</tr>
<tr>
<td>8</td>
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<td>1600.00 to 1749.99</td>
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<tr>
<td>13</td>
<td>1750.00 to 1899.99</td>
<td>$19.00</td>
<td>$460.00</td>
</tr>
</tbody>
</table>
Sec. 11. Benefit Rate; Partial Unemployment.—An eligible individual who is partially unemployed in any week shall upon claim therefor filed within such time and in such manner as the director may by regulation prescribe, be paid benefits for such partial unemployment in an amount equal to his weekly benefit rate, as determined in accordance with section ten of this article, less that part of wages from any source payable to him with respect to such week which is in excess of six dollars: Provided, That such amount of benefits if not a multiple of one dollar shall be computed to the next higher multiple of one dollar. Such partial benefits shall be paid to such individual for the week for which he is claiming benefits without regard to the provisions of subsections one and four of section one of this article.

Article 7. Claim Procedure.

Section 8. Appeal from Deputy's Decision.—A claimant, last employer, 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, and the director, 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, and the director of its findings and decision.

Sec. 9. Finality of Examiner's Decision.—A claimant, last employer, 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 of necessity 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, and the director, 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, and the director of its findings and decision on an appeal.

Sec. 17. Finality of Board’s Decision.—The decision of the board shall be final and benefits shall be paid or denied in accordance therewith, unless a claimant, last employer, or other interested party appeals to a court within thirty days after mailing of notification of the board’s decision.

Article 8. Unemployment Compensation Fund.

Section
1. Establishment.
5. Clearing account.

Section 1. Establishment.—There is hereby established as a special fund, separate and apart from all public moneys or funds of the state, an unemployment compensation fund. The fund shall consist of:

(1) All payments collected under this chapter.
(2) Interest earned upon money in the fund.
(3) Property or securities acquired through the use of the fund.
(4) Earnings of such property or securities.
(5) Amounts transferred from the employment security special administration fund.
(6) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with title twelve of the Social Security Act, as amended.

All money in the fund shall be mingled and undivided.

Sec. 5. Clearing Account.—Upon the receipt of payments and other moneys payable into the fund under this chapter, the director shall immediately deposit them in the clearing account. Refunds payable under section nineteen, article five, of payments erroneously collected, shall be made from the clearing account. Such refunds shall be made upon warrants issued by the director. Interest collected on delinquent payments shall be paid out of the clearing account, upon warrants issued by the director, into the state treasury to be credited to the employment security special administration fund.
Article 9. Employment Security Administration Funds.

Section
1. Administration fund.
3. Contents of fund.
5-a. Special administration fund.
8. Reimbursement of fund.

Section 1. Administration Fund.—There is hereby created in the state treasury a special fund to be known as the employment security administration fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in section seven of this article shall be expended solely for the purposes and in the amounts found necessary by the Social Security Administration for the proper and efficient administration of this chapter.

Sec. 3. Contents of Fund.—The fund shall consist of:
(1) Moneys appropriated by the state.
(2) Moneys received from the United States or any agency thereof, including the Social Security Administration and the United States Employment Service.
(3) Moneys received from any other source.

Sec. 5-a. Special Administration Fund.—There is hereby created in the state treasury a fund to be known as the employment security special administration fund, which shall consist of interest collected on delinquent payments pursuant to section seventeen of article five of this chapter. The moneys deposited with this fund are hereby appropriated and made available to the order of the director for the purpose of (a) replacements in the employment security administration fund as provided in section eight of this article, (b) to meet special, extraordinary, and contingent expenses not provided for in the employment security administration fund, and (c) refunds pursuant to section nineteen of article five, of interest erroneously collected. This fund shall be administered and disbursed in the same manner and under the same conditions as other special funds of the state treasury. Balances to the credit of the special administration fund shall not lapse at any time but shall be continuously available to the director for expenditures
provided, (1) That not more than twelve thousand five hundred dollars shall be expended from said fund in any fiscal year for purposes (a) and (b); (2) that at the beginning of each calendar quarter the director shall estimate the amount that may be required in that quarter for refunds of interest erroneously collected; (3) that thereupon the excess, if any, over the amounts provided to be expended under this section shall be paid into the unemployment compensation trust fund.

Sec. 8. Reimbursement of Fund.—If any moneys received after June thirty, one thousand nine hundred forty-one, from the social security administration under title three of the social security act, or any unencumbered balances in the employment security administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the social security administration, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the social security administration for the proper administration of this law, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the employment security administration fund for expenditure as provided by the unemployment compensation law. Upon receipt of notice of such a finding by the social security administration, the director shall promptly report the amount required for such replacement to the governor and the governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. This article shall not be construed to relieve this state of its obligation with respect to funds received prior to July one, one thousand nine hundred forty-one, pursuant to the provisions of title three of the Social Security Act.

Section 10. General Penalty.

Section 10. General Penalty. — A person who wilfully violates a provision of this chapter or rule or regulation thereunder for which a specific penalty has not been imposed shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty dollars nor more than two hundred dollars, or be imprisoned for not longer than thirty days, or both. Each day such violation continues shall be a separate offense.

CHAPTER 136

( House Bill No. 203—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact sections eleven and seventeen, article one; to amend and reenact section five, article two, and to amend article two by adding thereto a new section, to be designated section six-a; to amend and reenact sections one, two, three, four, six, six-a, eight, nine, ten, fourteen, fifteen, fifteen-b and sixteen, article four, and to amend article four by adding thereto four new sections, to be designated sections eight-d, eight-e, eight-f and fifteen-c; and to amend and reenact section five, article five; all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all relating to workmen's compensation and its administration.

[Passed March 10, 1949; in effect July 1, 1949. Approved by the Governor.]

Article

2. Employers and Employees Subject to Chapter; Premiums.
3. Disability and Death Benefits.
4. Review.

Be it enacted by the Legislature of West Virginia:

That sections eleven and seventeen, article one, be amended and reenacted; that section five, article two be amended and
reenacted, and that a new section, to be designated section six-a be added to article two; that sections one, two, three, four, six, six-a, eight, nine, ten, fourteen, fifteen, fifteen-b and sixteen, article four, be amended and reenacted, and that four new sections, to be designated sections eight-d, eight-e, eight-f and fifteen-c, be added to article four; and that section five, article five be amended and reenacted; all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all to read as follows:

**CHAPTER 23. WORKMEN'S COMPENSATION**

**Article 1. General Administrative Provisions.**

Section 11. Depositions.-In an investigation, the commissioner may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions as provided for transcripts in the circuit court, but such depositions shall be upon reasonable notice to claimant and employer or their respective attorneys. The commissioner shall also have discretion to accept and consider depositions taken within or without the state by either the claimant or employer, provided due and reasonable notice of the taking of such depositions was given to the other party, claimant or employer, as the case may be, or his attorney: *Provided, however, That the commissioner, upon due notice both to the employer and claimant, shall have authority to refuse or permit the taking of such depositions or to reject such depositions after the taking thereof, if in his opinion they were taken at such place or under such circumstances as imposed an undue burden or hardship upon the opposite party, and the commissioner's discretion to accept, refuse to approve, or reject such depositions shall be binding in the absence of abuse of such discretion.*

Sec. 17. Annual Report by Commissioner to Governor.—Annually, on or about the fifteenth day of September in each year, the commissioner, under oath, shall make a
report as of the thirtieth day of June to the governor, which shall include a statement of the number of awards made by him, a general statement of the causes of the injuries for which the awards were made, a detailed statement of all disbursements, and the condition of the fund, together with any other matters which the commissioner deems it proper to call to the attention of the governor, including any recommendations he may have to make.

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.

6-a. Exemption from liability of officers, managers, agents, representatives or employees of contributing employers.

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 liabilities 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 here-
the state treasury. Each employer shall make a pay-
roll 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 ar-
ticle; 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 writ-
ten notice posted as hereinafter provided for in this sec-
tion. The termination of election of such delinquent em-
ployer 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 pre-
ceding 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 reinstate-
ment shall be in effect from and after the date that the
new application is accepted by the commissioner: Pro-
vided, 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 be-
comes 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 commissioner by twelve o'clock p. m. of the twentieth of the month in which request is mailed, pay to the commissioner 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 request 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 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 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 commissioner that his deposit is not equal to the sum of his premium 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 commissioner. The deposit hereinbefore described shall be credited to the employer’s account on the books of the commissioner 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 balance 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 employer 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 injury or death sustained 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 willful 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 the com-
missioner out of any funds at his disposal, but shall be
charged by him against the account of the employer to
whose delinquency such notice relates.

Sec. 6-a. Exemption from Liability of Officers, Man-
agers, Agents, Representatives or Employees of Contrib-
uting Employers.—The immunity from liability set out
in the preceding section shall extend to every officer,
manager, agent, representative or employee of such em-
ployer when he is acting in furtherance of the employer's
business and does not inflict an injury with deliberate
intention.

Article 4. Disability and Death Benefits.

Section
1. To whom compensation fund disbursed; silicosis and other occu-
pational diseases included in “injury” and “personal injury”;
definition of silicosis and other occupational diseases.
2. Disbursement where injury is self-inflicted or intentionally caused
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Section 1. To Whom Compensation Fund Disbursed;
2 Silicosis and Other Occupational Diseases Included in
"Injury" and "Personal Injury"; Definition of Silicosis and Other Occupational Diseases.—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 purposes of this chapter the terms "injury" and "personal injury" shall be extended to include silicosis and any other occupational disease as hereinafter defined, 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 the hazard of silicon dioxide dust or to any other occupational hazard, and have contracted silicosis or other occupational disease, or have suffered a perceptible aggravation of an existing 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 in the state of West Virginia the employee has been exposed to the hazard of silicon dioxide dust over a continuous period of not less than two years during the ten years immediately preceding the date of his last
exposure to such hazards. 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 by whom the claimant was employed for as much as sixty days during the 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 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, whether or not accompanied by tuberculosis of the lungs.

Wherever the expression “injurious exposure to silicon dioxide dust”, or “injurious exposure to silicon dioxide dust in harmful quantities”, or “exposure to the hazard of silicon dioxide dust”, or any similar language shall appear in this chapter, such expression shall be construed to mean the exposure of an employee in the course of his employment to a working condition in which the air contains such a concentration of silicon dioxide dust that the breathing of such air by a person over a long period of time would be likely to cause him to contract the disease of silicosis.

For the purpose of this chapter, occupational disease means a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment shall be compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of silicosis, a disease shall be deemed to have been incurred in the course of or to have resulted from the employment only if it is apparent to the rational mind, upon consideration of all the circumstance that there is a direct casual connection between the conditions under which work is performed and the occupational dis-
ease, (2) that it can be seen to have followed as a natural
incident of the work as a result of the exposure occasioned
by the nature of the employment, (3) that it can be fairly
traced to the employment as the proximate cause, (4) that
it does not come from a hazard to which workmen would
have been equally exposed outside of the employment, (5)
that it is incidental and peculiar to the character of the busi-
ness and not independent of the relation of employer and
employee, and (6) that it must appear to have had its ori-
gin in a risk connected with the employment and to have
flowed from that source as a natural consequence, though
it need not have been foreseen or expected before its
contraction.

Except in the case of silicosis, no award shall be made
under the provisions of this chapter for any occupational
disease contracted prior to the first day of July, one thou-
sand nine hundred forty-nine. An employee shall be
deemed to have contracted an occupational disease within
the meaning of this paragraph if the disease or condition
has developed to such an extent that it can be diagnosed
as an occupational disease. In every hearing before the
commissioner in this regard, the burden shall be on the
claimant to prove that prior to such date the employee
had not contracted the occupational disease for which
compensation is sought.

Sec. 2. Disbursement Where Injury is Self-Inflicted or
Intentionally Caused by Employer; Rules and Safety Ap-
pliances; “Willful Self-Exposure” Defined.—Notwithstand-
ing anything hereinbefore or hereinafter contained, no
employee or dependent of any employee shall be entitled
to receive any sum from the workmen’s compensation
fund, or to direct compensation from any employer mak-
ing the election and receiving the permission mentioned
in section nine, article two of this chapter, or otherwise
under the provisions of this chapter, on account of any
personal injury to or death of any employee caused by a
self-inflicted injury, willful misconduct, willful disobe-
dience to such rules and regulations as may be adopted
by the employer and approved by the commissioner of
labor or chief of the department of mines, and which
rules and regulations have been and are kept posted
in conspicuous places in and about the work, willful self-
exposure in case of silicosis or other occupational disease,
as defined herein, or the intoxication of such employee,
or the failure of such employee to use or make use of any
protective or safety appliance or appliances prescribed
by the commissioner and furnished by the employer for
the use of or applicable to such employee. For the pur-
purpose of this chapter, the commissioner may cooperate
with the state department of mines and the state depart-
ment of labor in promoting general safety programs and
in formulating rules and regulations to govern hazardous
employments. If injury or death result to any employee
from the deliberate intention of his employer to produce
such injury or death, the employee, the widow, widower,
child or dependent of the employee shall have the priv-
ilege to take under this chapter, and shall also have cause
of action against the employer, as if this chapter had not
been enacted, for any excess of damages over the amount
received or receivable under this chapter.

As used in this section the term “willful self-exposure”
causing the contraction of the disease of silicosis or other
occupational disease shall also include: (1) Failure or
omission on the part of an employee truthfully to state
to the best of his knowledge, in answer to inquiry made
by the employer, the place, duration and nature of pre-
vious employment; (2) Failure or omission on the part
of an employee truthfully to furnish, to the best of his
knowledge, in answer to an inquiry made by the em-
ployer, full information as to the previous state of his
health, as to exposure to lung diseases, to any other occu-
pational disease, or to any condition likely to cause an
occupational disease, and as to any special medical atten-
tion that he may have previously received in connection
with any such disease.

Sec. 3. Disbursements for Medicine, Hospital Treat-
ment, Artificial Limbs and Other Appliances; Contract
by Employer with Hospital Prohibited.—Except in case
of silicosis, the commissioner shall disburse and pay from
the fund for such personal injuries to such employees as
may be entitled thereto hereunder as follows:
(a) Such sums for medicine, medical, surgical, dental
and hospital treatment, crutches, artificial limbs and such
other and additional approved mechanical appliances and
devices as may be reasonably required, but in no case to
exceed the sum of sixteen hundred dollars: Provided,
however, That in exceptional cases where the treatment
required, in the opinion of competent medical authority,
is such as to necessitate an expenditure in excess of such
amount, the commissioner may, with the approval of the
employer, pay out of any available funds, such additional
sum as may be necessary, not to exceed an additional sum
of eight hundred dollars, but such additional sum shall
not be charged to the account of the employer.
(b) Payment for such medicine, medical, surgical,
dental and hospital treatment, crutches, artificial limbs
and such other and additional approved mechanical ap-
pliances and devices authorized under subdivision (a)
hereof may be made to the injured employee, or to the
person or persons who have furnished such service, or
who have advanced payment for same, as the commis-
ioner may deem proper, but no such payments or dis-
bursements shall be made or awarded by him unless duly
verified statements on forms prescribed by the commis-
ioner shall be filed with the commissioner within six
months after the cessation of such treatment or the de-
livery of such appliances.
(c) No employer shall enter into any contracts with
any hospital, its physicians, officers, agents or employees,
to render medical, dental or hospital service or to give
medical or surgical attention therein to any employee
for injury compensable within the purview of this act,
and no employer shall permit or require any employee
to contribute, directly or indirectly, to any fund for the
payment of such medical, surgical, dental or hospital
service within such hospital for such compensable injury.
Any employer violating this section shall be liable in
damages to his or its employees and shall not avail him-
self of any of the common law defenses mentioned in section eight, article two of this chapter, and any employer or hospital or agent or employee thereof violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars or to undergo imprisonment not exceeding one year, or both.

Sec. 4. Funeral Expenses.—In case the personal injury causes death, and disability is continuous from the date of such injury to date of death, reasonable funeral expenses, not to exceed three hundred dollars, shall be paid from the fund, payment to be made to the persons who have furnished the service and supplies, or to the persons who have advanced payment for same, as the commissioner may deem proper, in addition to such award as may be made to the employee's dependents.

Sec. 6. Classification of Disability Benefits.—Where compensation is due an employee under the provisions of this chapter for a personal injury other than silicosis, such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability, the employee shall receive during the continuance thereof sixty-six and two-thirds per cent of his average weekly earnings, not to exceed a maximum of twenty-five dollars a week nor to be less than a minimum of fifteen dollars a week.

(b) Subdivision (a) shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding one hundred and fifty-six weeks.

(c) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the award computed and allowed as follows:

For permanent disability of from one per cent to eighty-five per cent, sixty-six and two-thirds per cent of the average weekly earnings for a period to be computed on the basis of four weeks' compensation for each per cent of disability determined.
For a disability from eighty-five to one hundred per cent, sixty-six and two-thirds per cent of the average weekly earnings during the remainder of life.

(d) If the injury results in the total loss by severance of any of the members named in this subdivision, the percentage of disability shall be determined in accordance with the following table, and award made as provided in subdivision (c) of this section:

- The loss of a great toe shall be considered a ten per cent disability.
- The loss of a great toe (one phalanx) shall be considered a five per cent disability.
- The loss of other toes shall be considered a four per cent disability.
- The loss of other toes (one phalanx) shall be considered a two per cent disability.
- The loss of all toes shall be considered a twenty-five per cent disability.
- The loss of fore part of foot shall be considered a thirty per cent disability.
- The loss of foot shall be considered a thirty-five per cent disability.
- The loss of leg shall be considered a forty-five per cent disability.
- The loss of thigh shall be considered a fifty per cent disability.
- The loss of thigh at hip joint shall be considered a sixty per cent disability.
- The loss of little or fourth finger (one phalanx) shall be considered a three per cent disability.
- The loss of little or fourth finger shall be considered a five per cent disability.
- The loss of ring or third finger (one phalanx) shall be considered a three per cent disability.
- The loss of ring or third finger shall be considered a five per cent disability.
- The loss of middle or second finger (one phalanx) shall be considered a three per cent disability.
The loss of middle or second finger shall be considered a seven per cent disability.

The loss of index or first finger (one phalanx) shall be considered a six per cent disability.

The loss of index or first finger shall be considered a ten per cent disability.

The loss of thumb (one phalanx) shall be considered a twelve per cent disability.

The loss of thumb shall be considered a twenty per cent disability.

The loss of thumb and index finger shall be considered a thirty-two per cent disability.

The loss of index and middle finger shall be considered a twenty per cent disability.

The loss of middle and ring finger shall be considered a fifteen per cent disability.

The loss of ring and little finger shall be considered a ten per cent disability.

The loss of thumb, index and middle finger shall be considered a forty per cent disability.

The loss of index, middle and ring finger shall be considered a thirty per cent disability.

The loss of middle, ring and little finger shall be considered a twenty per cent disability.

The loss of four fingers shall be considered a thirty-two per cent disability.

The loss of hand shall be considered a fifty per cent disability.

The loss of forearm shall be considered a fifty-five per cent disability.

The loss of arm shall be considered a sixty per cent disability.

The total and irrevocable loss of the sight of one eye shall be considered a thirty-three per cent disability, and the injured employee shall be entitled to compensation for a period of one hundred and thirty-two weeks.

For the partial loss of vision in one, or both eyes, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of one eye.

(e) Should a claimant to whom has been made a per-
manent partial award of from one per cent to eighty-five per cent, both inclusive, die from sickness or non-compensable injury, the unpaid balance of such award shall be paid to claimant’s dependents as defined in this chapter, if any; such payment to be in the same installments that would have been paid to claimant if living: Provided, however, That no payment shall be made to any widow of such claimant after her remarriage, and that this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, such estate.

(f) The award for permanent disabilities intermediate to those fixed by the foregoing schedule and permanent disability of from one per cent to eighty-five per cent shall be in the same proportion and shall be computed and allowed by the commissioner.

(g) The percentage of all permanent disabilities other than those enumerated in subdivisions (c), (d), (e), and (f) of this section shall be determined by the commissioner, and award made in accordance with the provisions of subdivision (c).

(h) Compensation payable under any subdivision of this section shall be limited as follows: Not to exceed a maximum of twenty-five dollars a week, nor to be less than a minimum of twelve dollars a week.

(i) Where an injury results in temporary total disability for which compensation is awarded under subdivision (a) of this section and such injury is later determined permanent partial disability under subdivision (c), the amount of compensation so paid shall be considered as payment of the compensation payable for such injury in accordance with the schedule in subdivision (c). Compensation, either total temporary or permanent partial, under this section shall be payable only to the injured employee and the right thereto shall not vest in his or her estate, except that any unpaid compensation which would have been paid or payable to the employee up to the time of his death, if he had lived, shall be paid to the dependents of such injured employee if there be such dependents at the time of death.
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143 (j) The following permanent disabilities shall be conclusively presumed to be total in character:
144 Loss of both eyes or the sight thereof.
145 Loss of both hands or the use thereof.
146 Loss of both feet or the use thereof.
147 Loss of one hand and one foot or the use thereof.
148 In all other cases permanent disability shall be determined by the commissioner in accordance with the facts in the case, and award made in accordance with the provisions of subdivision (c).

Sec. 6-a. Stages of Silicosis; Benefits and Mode of Payment to Employees and Dependents.—An employee shall, for the purpose hereof, be deemed to have silicosis:
1 (1) In the first stage when it is found by the commissioner that the earliest detectable specific signs of silicosis are present, whether or not capacity for work is or has been impaired by such silicosis; (2) In the second stage when it is found by the commissioner that definite and specific physical signs of silicosis are present, and that capacity for work is or has been impaired by that disease; (3) In the third stage when it is found by the commissioner that the employee has silicosis resulting in total permanent disability, whether or not accompanied by tuberculosis of the lungs.

Where compensation for silicosis is due an employee under the provisions hereof, such compensation shall be as provided in the following schedule: (a) If the employee is suffering from silicosis in the first stage, the employee shall receive one thousand dollars as compensation in full for silicosis that he has sustained as a result of and in the course of his employment, to be payable as a lump sum or in periodic installments in the discretion of the commissioner, which shall be a final payment and operate as a full release by the employee for compensation and for any claim against the employer that the employee may thereafter have for silicosis, and irrespective of whether the employee thereafter continues in the same employment, he shall not have the right to receive any or further compensation or make any claim because of silicosis, either to the compensation commissioner or
against his employer, anything to the contrary in this chapter notwithstanding. (b) If the employee is suffering from silicosis in the second stage, the employee shall receive two thousand dollars as compensation in full for silicosis that he has sustained as a result of and in the course of his employment, to be payable as a lump sum or in periodic installments in the discretion of the commissioner, which shall be a final payment and operate as a full release by the employee for compensation and for any claim against the employer that the employee may thereafter have for silicosis and irrespective of whether the employee thereafter continues in the same employment, he shall not have the right to receive any or further compensation or make any claim because of silicosis either to the commissioner or against his employer, anything to the contrary in this chapter notwithstanding. (c) If the employee is suffering from silicosis in the third stage, the compensation shall be paid therefor in the same manner and at the same rate as is provided for permanent disability under the provisions of subdivisions (c), (f) and (h) of the preceding section. (d) If the employee dies from silicosis within six years from the date of his last injurious exposure to silicon dioxide dust in harmful quantities and the commissioner has determined at the time of the original award that he was suffering from silicosis in the third stage, the benefits shall be in the amounts and to the persons provided for in section ten of this article; as to such benefits sections eleven to fourteen inclusive, of this article shall apply.

Sec. 8. Physical Examination of Claimant; Expenses.—The commissioner shall have authority, after due notice to the employer and claimant, whenever in his opinion it shall be necessary, to order a claimant of compensation for a personal injury other than silicosis or other occupational disease to appear for examination before a medical examiner or examiners selected by the commissioner; and the claimant and employer, respectively, shall each have the right to select a physician of his or its own choosing and at his or its own expense to participate in such examination. The claimant and employer shall, respectively be
furnished with a copy of the report of examination made
by the medical examiner or examiners selected by the
commissioner. The respective physicians selected by the
claimant and employer shall have the right to concur in
any report made by the medical examiner or examiners
selected by the commissioner, or each may file with the
commissioner a separate report, which separate report
shall be considered by the commissioner in passing upon
the claim. If the compensation claimed is for silicosis, the
commissioner shall have the power, after due notice to the
employer, and whenever in his opinion it shall be neces-
sary, to order a claimant to appear for examination before
the silicosis medical board hereinafter provided. If the
compensation claimed is for an occupational disease other
than silicosis, the commissioner shall have the power, after
due notice to the employer, and whenever in his opinion it
shall be necessary, to order a claimant to appear for exami-
nation before the occupational diseases medical board
hereinafter provided. In any case the claimant shall be
titled to reasonable traveling and other expenses neces-
sarily incurred by him in obeying such order, which shall
be paid out of the amount allowed under this chapter for
medical, surgical, dental and hospital treatment.

Sec. 8-d. Occupational Diseases Medical Board Created;
Qualifications; Term of Office; Duties; Remuneration.—
There shall be a medical board, known as the "occupa-
tional diseases medical board", which shall consist of three
licensed physicians to be appointed by the commissioner.
No person shall be appointed as a member of such board,
or as a consultant thereto, who has not by special study
or experience, or both, acquired special knowledge of
occupational diseases. All members of the board shall
be physicians of good professional standing, admitted to
practice medicine and surgery in this state. One of the
board shall be designated annually as chairman by the
commissioner. The term of office of each member of such
board shall be six years. The function of the board shall
be to determine all medical questions relating to cases of
compensation for occupational diseases other than sili-
cosis, under the direction and supervision of the commis-
The commissioner from time to time, shall fix the per diem salary, computed on the basis of actual time devoted to the discharge of their duties, to be paid the members of such board, and they shall also be entitled to reasonable and necessary traveling and other expenses incurred while actually engaged in the performance of their duties.

In the event the board shall deem it desirable, it may appoint a physician or physicians of good professional standing, admitted to practice medicine and surgery in this state, to conduct such clinical, physical and X-ray examinations of claimants as may in the opinion of the board be necessary. Such examiner or examiners shall prepare a written report setting forth their findings with respect to all medical questions involved in the claim; copies of such report shall be furnished the employee and employer and filed with the board, together with a copy of all hospital records, laboratory findings, X-rays or other evidence considered by such examiner or examiners; such records and reports shall then be considered by the board in passing upon the medical issues involved in the claim. Any such examiners shall be paid such fees and expenses as may be prescribed by the commissioner.

Sec. 8-e. Occupational Diseases Medical Board; Procedure; Autopsy.—The occupational diseases medical board, upon reference to it by the commissioner of a case involving an occupational disease other than silicosis, shall notify the employee, or in case he is dead, the claimant, and the employer, to appear before such board, or before an examiner or examiners appointed by it, at the time and place stated in the notice. If the employee be living, he shall appear at the time and place specified and submit to such examination, including clinical and X-ray examinations, as the board may require. If a physician licensed to practice medicine in the state shall make affidavit that the employee is physically unable to appear at the time and place designated by the board, such board shall, on notice to the proper parties, change the place and time as may reasonably facilitate the hearing or examination of the employee. The employee, or in case he
is dead, the claimant, and the employer shall also produce
as evidence for the board, or for any examiner appointed
by it, all reports of medical and X-ray examinations which
may be in their respective possession or control, showing
the past or present condition of the employee. If the em-
ployee be dead, the notice of the board shall further re-
quire that the claimant produce necessary consents and
permits so that an autopsy may be performed, if the board
shall so direct. When in the opinion of the board an au-
topsy is deemed necessary accurately and scientifically
to ascertain and determine the cause of death, such au-
topsy examination shall be ordered by the board, which
shall designate a duly licensed physician, a pathologist,
or such other specialists as may be deemed necessary by
the board, to make such examination and tests to determ-
ine the cause of death and certify his or their written
findings, in triplicate, to the board, which findings shall
be public records. In the event that a claimant for com-
pensation for such death refuses to consent and permit
such autopsy to be made, all rights for compensation shall
thereupon be forfeited.

The employee, or if he be dead, the claimant, and the
employer, shall be entitled to be present at all examina-
tions conducted by the board, or by any examiner ap-
pointed by it, and to be represented by attorneys and
physicians.

Sec. 8-f. Occupational Diseases Medical Board; Reports
and Distribution Thereof, Findings Required of Board;
Objection to Findings; Procedure Thereon.—The occupa-
tional diseases medical board, as soon as practicable, after
it has completed its investigation, shall make its written
report, to the commissioner, of its findings and conclu-
sions on every medical question in controversy, and the
commissioner shall send one copy thereof to the employee
or claimant and one copy to the employer, and the board
shall also return to and file with the commissioner all
the evidence, as well as all statements under oath, if any,
of the persons who appeared before it or before any ex-
aminer appointed by it on behalf of the employee or claim-
ant, or employer, and also all medical reports and X-ray
examinations produced by or on behalf of the employee or claimant, or the employer.

The findings and conclusions of the board shall set forth, among other things, the following:

(a) Does the claimant suffer from a disease or infection? If so, what?

(b) When was such disease or infection, if any, contracted and approximately how long has claimant suffered therefrom?

(c) Is such disease or infection, if any, peculiar to the industrial process, trade or occupation in which claimant has been last employed?

(d) Was such disease or infection, if any, incurred in the course of and did it result from the claimant’s regular employment in such industrial process, trade or occupation?

(e) Is such disease, if any, disabling to the claimant?

(f) If so, to what degree is claimant disabled by such occupational disease?

(g) Any other matter deemed pertinent by the board.

If the claim be for death benefits under the provisions of this chapter, the medical board shall find on each of the above questions as of a date immediately preceding the employee’s death, and in addition shall find the cause of death.

If either party objects to the whole or any part of such findings and conclusions of the board, he shall file with the commissioner, within fifteen days of the mailing of such copy to him unless for good cause shown the commissioner extends such time, his objections thereto in writing, specifying the particular statements of the board’s findings and conclusions to which he objects. After the time has expired for the filing of objections to the findings and conclusions of the board, the commissioner shall proceed to act as provided in this chapter. If after the time has expired for the filing of objections to the findings and conclusions of the board no objections have been filed, the report of a majority of the board of its findings and conclusions on any medical question shall be taken to be plenary and conclusive evidence of the findings and con-
clinations therein stated. If objection has been filed to the
findings and conclusions of the board, notice thereof shall
be given to the board, and the members thereof who
joined in such findings and conclusions, and any exam-
iner who filed a report in the case, shall appear at the
time fixed by the commissioner for the hearing to submit
to examination and cross-examination in respect to such
findings and conclusions. At such hearing evidence to
support or controvert the findings and conclusions of the
board shall be heard.

Sec. 9. Physical and Vocational Rehabilitation.—In
cases where an employee has sustained a permanent dis-
ability, or has sustained injuries likely to result in per-
manent disability, and such fact has been determined by
the commissioner, and the employee can be physically
and vocationally rehabilitated and returned to remunera-
tive employment by vocational training, by the use of
crutches, artificial limbs, or other approved mechanic
appliances, or by medicines, medical, surgical, dental or
hospital treatment, the commissioner shall forthwith, after
due notice to the employer, expend such an amount as
may be necessary for the aforesaid purposes, not, how-
ever, in any case, to exceed the sum of eight hundred dol-
lars. No payment, however, shall be made for such pur-
poses as provided by this section unless authorized by the
commissioner prior to the rendering of such treatment.
In every case in which the commissioner shall order
physical or vocational rehabilitation of a claimant as pro-
vided herein, the claimant shall, during the time he is
receiving any vocational rehabilitation or rehabilitative
treatment that renders him totally disabled during the
period thereof, be compensated on a temporary total dis-
ability basis for such period, unless he is being paid com-
pensation under an award granted prior to the time such
rehabilitation is authorized by the commissioner.

Sec. 10. Classification of Death Benefits; “Dependent”
Defined.—In case a personal injury other than silicosis or
other occupational disease, suffered by an employee in the
course of and resulting from his employment, causes death
within the period of six years and disability is continuous from date of such injury until date of death, or if death results from determined third degree silicosis or from any other occupational disease within six years from the date of the last exposure to the hazard of silicon dioxide dust or to the other particular occupational hazard involved, as the case may be, the benefits shall be in the amounts and to the persons as follows:

(a) If there be no dependents, the disbursements shall be limited to the expense provided for in sections three and four of this article.

(b) If the deceased employee leaves a dependent widow or invalid widower, the payment shall be fifty dollars a month until death or remarriage of such widow or widower, and in addition fifteen dollars a month for each child under eighteen years of age, to be paid until such child reaches such age, or, if an invalid child, twenty dollars a month, to continue as long as such child remains an invalid: Provided, however, That if such widow or invalid widower shall remarry within ten years from the date of the death of such employee, such widow or widower shall be paid at the time of remarriage twenty per cent of the amount that would be due for the period remaining between the date of such remarriage and the end of ten years from the date of death of such employee, and such widow or widower shall be advised in writing by the commissioner of his or her rights under this proviso at the time of making the original award: Provided further, That if upon investigation and hearing, as provided in article five of this chapter, it shall be ascertained that such widow or widower is living with a man or woman, as the case may be, as man and wife and not married, or that the widow is living a life of prostitution, the commissioner shall stop the payments of the benefits herein provided to such widow or widower.

If the deceased employee be a widow or widower and leaves a child or children under the age of eighteen years, the payment shall be twenty dollars a month to each child until he or she reaches the age of eighteen years.

In all awards of compensation to children, unless other-
wise provided herein, the award shall be until they reach the age of eighteen years or until their death prior thereto.

(c) If the deceased employee leaves no dependent widow or widower and leaves a wholly dependent father or mother, he or she shall be paid the sum of thirty dollars a month, payments to continue until death, and if there be no widow or widower and both the father and mother are wholly dependent, then a joint award shall be made to the father and mother in the sum of thirty dollars a month until death. Upon the death of either the father or mother in any case in which a joint award has been made to them, the full award of thirty dollars a month shall be paid to the survivor until his or her death.

(d) If the deceased employee leaves no dependent widow or widower or wholly dependent father or mother but there are other wholly dependent persons, as defined in paragraph (f) of this section, the payment shall be twenty dollars a month, to continue for six years after the death of the deceased, except as otherwise provided herein.

(e) If the deceased employee leaves no dependent widow or widower, child under eighteen years of age, or wholly dependent person, but there are partially dependent persons at the time of death, the payment shall be twenty dollars a month, to continue for such portion of the period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b), (c), (d), and (e) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(f) Dependent, as used in this chapter, shall mean a widow, invalid widower, child under eighteen years of age, invalid child or a posthumous child, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; also the following persons who are and continue to be residents of the United States or its territorial possessions: Stepchild under eighteen years of age, child
Sec. 14. Computation of Benefits.—The average weekly wage earnings, wherever earned, of the injured person at the time of the injury, shall be taken as the basis upon which to compute the benefits. The time of injury within the meaning of this section shall be two months, six or twelve months immediately preceding the date of the injury, whichever is most favorable to the injured employee. In cases involving silicosis or other occupational diseases, the “date of injury” shall be the date of the last exposure to the hazard of silicon dioxide dust or to the other particular occupational hazard involved, as the case may be.

Sec. 15. Application for Benefits.—To entitle any employee or dependent of a deceased employee to compensation under this chapter, other than for silicosis, the application therefor must be made on the form or forms prescribed by the commissioner and filed in the office of the commissioner within one year from and after the injury or death, as the case may be, and all proofs of dependency in fatal cases must likewise be filed with the commissioner within one year from and after the death. In case the employee is mentally or physically incapable of filing such application, it may be filed by his attorney or by a member of his family.

To entitle any employee to compensation for silicosis under the provisions hereof, the application therefor must be made on the form or forms prescribed by the commissioner and filed in the office of the commissioner within two years from and after the last day of the last continuous period of sixty days or more during which the employee was exposed to the hazard of silicon dioxide dust or to
the other particular occupational hazard involved, as the case may be, or, in the case of death, the application shall be filed as aforesaid by the dependent of such employee within one year from and after such employee's death.

Sec. 15-b. Nonmedical Questions Determined by the Commissioner in Silicosis Cases; Hearing.—If a claim for silicosis benefits be filed by an employee, the commissioner shall determine whether the claimant was exposed to the hazard of silicon dioxide dust for a continuous period of not less than sixty days while in the employ of the employer within two years prior to the filing of his claim, and whether in the state of West Virginia the claimant was exposed to such hazard over a continuous period of not less than two years during the ten years immediately preceding the date of his last exposure thereto. If a claim for silicosis benefits be filed by a dependent of a deceased employee, the commissioner shall determine whether the deceased employee was exposed to the hazard of silicon dioxide dust for a continuous period of not less than sixty days while in the employ of the employer within six years prior to the filing of the claim, and whether in the state of West Virginia the deceased employee was exposed to such hazard over a continuous period of not less than two years during the ten years immediately preceding the date of his last exposure thereto. The commissioner shall also determine such other nonmedical facts as may in his opinion be pertinent to a decision on the validity of the claim.

The commissioner shall give each interested party notice in writing of his findings with respect to all such nonmedical facts and such findings shall be subject to objection and hearing as provided in section one, article five of this chapter.

Sec. 15-c. Nonmedical Questions Determined by Commissioner on Hearing of Claim for Occupational Diseases other than Silicosis.—On the hearing of a claim for compensation for an occupational disease other than silicosis, the commissioner shall hear, determine and file findings covering, but not limited to, the following nonmedical questions:
(a) Whether the employee was in fact, within two years prior to the filing of his claim, in the employ of the employer, and, if so, the duration of such employment and whether or not such employment was subject to the provisions hereof.

(b) The occupation or occupations, process or processes, in which the employee was engaged during such employment and the approximate periods of work in each such occupation or process.

(c) The employments, previous and subsequent to the employment out of which the claim arose, the duration thereof and the exposure therein to the hazard causing the occupational disease.

(d) Whether the last injurious exposure to the hazard causing occupational disease in the employment with the employer lasted for a continuous period of not less than sixty days and occurred within two years prior to the filing of the claim, and if the employee is no longer in the service of the employer, the date upon which such employee ceased to work; and, if the employee has died, the date and place of such death, and the place of interment of the body.

The parties may in writing waive the hearing required by this section, in which case the commissioner shall determine the nonmedical facts listed above, and such other nonmedical facts as may in his opinion be pertinent to a decision on the validity of the claim.

The commissioner shall give each interested party notice in writing of his findings with respect to all such nonmedical facts, and such findings shall be subject to objection and hearing as provided in section one, article five of this chapter.

Sec. 16. Commissioner's Jurisdiction over Case Continuous; Modification of Finding or Order; Time Limitation on Awards.—The power and jurisdiction of the commissioner over each case shall be continuing and he may from time to time, after due notice to the employer, make such modifications or changes with respect to former findings or orders as may be justified: Provided, however, That no further award may be made in fatal cases arising after March seventh, one thousand nine
hundred twenty-nine, except within two years after the
death of the employee, or, in case of non-fatal injuries,
on and after March seventh, one thousand nine hundred
twenty-nine, except within three years after payments
for temporary disability shall have ceased or within one
year after the commissioner shall have made the last
payment in any permanent disability case: And provided
further, That no such modification or change may be
made in any case in which no award has been made,
except within three years after the date of injury. In
any case in which an injured employee shall make ap-
plication for a further adjustment of his claim, if such
application be in writing and filed within the applicable
time limit as prescribed herein, the commissioner shall
pass upon and determine the merits of such application
within thirty days after the filing thereof.
If such application is based on a report of any medical
examination made of the claimant and submitted by the
claimant to the commissioner in support of his applica-
tion, and the claim is opened for further consideration and
additional award is later made, the claim shall be reim-
bursed for the expenses of such examination. Such reim-
bursement shall be made by the commissioner to the
claimant, in addition to all other benefits awarded, upon
due proof of the amount thereof being furnished the com-
missioner by the claimant, but shall in no case exceed the
sum of fifty dollars.

Article 5. Review.

Section 5. Fees of attorney for claimant.

Section 5. Fees of Attorney for Claimant.—If any
claimant shall employ an attorney to represent him in
connection with any claim arising under this chapter and
such attorney shall file with the commissioner an exe-
cuted copy of his contract of employment with such
claimant, it shall be the duty of the commissioner to
protect such attorney in the collection of his fee to the
extent hereinafter provided, and if such contract does
not violate the schedule of fees specified herein, the com-
missioner shall pay the fee directly to the attorney from any award made in favor of the claimant.

In the case of an uncontested claim in respect to which the commissioner has not denied an award or has not refused to make an award in the amount requested by the claimant, the commissioner shall not assist the attorney in the collection of any fee. If, however, in the case of an uncontested claim the commissioner shall, prior to the filing of a formal protest, make an award previously denied or shall increase the amount of a claim previously awarded, the attorney fee shall not exceed seventy-five dollars. If a contested claim is finally determined while pending before the commissioner and no appeal is filed therein with the appeal board, the attorney fee shall not exceed one hundred fifty dollars; if the claim is finally determined while pending before the appeal board, the attorney fee shall not exceed three hundred dollars; and if the claim is finally determined by the supreme court of appeals, or if an appeal is allowed by such court, the attorney fee shall not exceed five hundred dollars. In no event, however, shall the commissioner pay an aggregate attorney fee of more than five hundred dollars in respect to any one claim, nor shall he pay an aggregate attorney fee of more than twenty-five per cent of the total award therein, nor shall he pay an aggregate attorney fee of more than twenty-five per cent of any increase in an award that may be made in any case in which a previous award had been made prior to the employment of the attorney, or in which a previous award had been made by the commissioner upon the original application without having been first denied.

CHAPTER 137
(House Bill No. 174—By Mr. Wright)

AN ACT to authorize the county court of Berkeley county to enter into a contract with the city of Martinsburg, providing for fire protection in said county by said city and
authorizing said court to pay to the city of Martinsburg, such sum or sums as may be agreed upon in contract to the city of Martinsburg for fire protection furnished by said city to all points within Berkeley county.

[Passed March 12, 1949; in effect from passage. Approved by the Governor.]

Section
1. Fire protection in Berkeley county; contract between county court and city of Martinsburg.

Be it enacted by the Legislature of West Virginia:

Section 1. Fire Protection in Berkeley County; Contract Between County Court and City of Martinsburg.—The county court of Berkeley county, be and it hereby is authorized, directed and empowered to enter into a contract with the city of Martinsburg, whereby the said city of Martinsburg agrees to furnish fire protection to all points within Berkeley county. The county court of Berkeley county is further authorized and empowered to agree in said contract to pay the said city of Martinsburg such sum as it, the said county court, deems proper for the furnishing of said fire protection within Berkeley county. The county court of Berkeley county is further authorized and empowered to transfer and pay over to the city of Martinsburg, from the general county fund, such sum as it may agree to pay in said contract, to be used and expended by the said city of Martinsburg, in furnishing fire protection to all points within said county. An emergency existing this act shall be in force from passage.

CHAPTER 138

(House Bill No. 329—By Mr. McLaughlin, of Braxton)

AN ACT to compensate Amos Green for personal injuries and to reimburse him for medical and hospital expenses and
other costs incurred as a result of the breaking of a bridge cable.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Section
1. Compensation and reimbursement for Amos Green for personal injuries, etc., sustained by falling off a bridge.
2. Finding of moral obligation.

WHEREAS, On the fourth day of March, one thousand nine hundred forty-eight, Amos Green, of Sutton, Braxton county, West Virginia, was working as a carpenter for the county board of education of Braxton county, West Virginia, on a bridge located at Falls Mill, Braxton county, West Virginia; and

WHEREAS, While actually engaged in such employment as a carpenter for the said county of Braxton on the aforesaid bridge, the cable of the bridge broke by reason of the negligence of said county board of education, and the said Amos Green was hurled violently into the Little Kanawha River; and

WHEREAS, As a result of so being hurled violently into the Little Kanawha river, the said Amos Green suffered a broken leg, in addition to cuts, contusions, abrasions and disabilities, and was hospitalized and necessarily incurred certain medical, hospital and other expenses; and

WHEREAS, Amos Green was in no sense at fault in the premises; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation and Reimbursement for Amos Green for Personal Injuries, etc., Sustained by Falling off a Bridge.—The county board of education of Braxton county, West Virginia, is hereby authorized and directed to pay Amos Green two thousand twenty-nine dollars for personal injuries, medical, hospital, loss of employment, and other costs, sustained by him by falling from a bridge at Falls Mill, which was occasioned by the breaking of a bridge cable.

Sec. 2. Finding of Moral Obligation.—It is hereby de-
clared to be the finding of the Legislature that this reim-
bursement is necessary to discharge a moral obligation of
the county board of education of Braxton county.

CHAPTER 139
(House Bill No. 201—By Mr. Campbell, of Cabell, and Mr. Leap)

AN ACT to amend and reenact sections one and two chapter
twenty-eight, acts of the Legislature, regular session, one
thousand eight hundred ninety-three, as amended by sec­
tion one, chapter ninety, acts of the Legislature, regular
session, one thousand nine hundred seventeen; and to
amend and reenact section twenty-four, chapter ninety,
acts of the Legislature, regular session, one thousand nine
hundred seventeen, as amended by section twenty-four,
chapter one hundred sixty-seven, acts of the Legislature,
regular session, one thousand nine hundred twenty-one,
and as amended by section twenty-four, chapter one hun­
dred one, acts of the Legislature, regular session, one thou­sand nine hundred thirty-five, creating and defining the purposes and jurisdiction
of the common pleas court of Cabell county and fixing the
salary of the judge thereof.

[Passed February 22, 1949; in effect ninety days from passage. Approved by the
Governor.]

Section
1. Common pleas court of Cabell county established.
2. Jurisdiction; supervision, etc., of criminal and civil cases before
justice, etc.

Be it enacted by the Legislature of West Virginia:

That sections one and two, chapter twenty-eight, acts of the
Legislature, regular session, one thousand eight hundred ninety-
three, as amended by section one, chapter ninety, acts of the
Legislature, regular session, one thousand nine hundred seven-
teen, and section twenty-four, chapter ninety, acts of the Legis-
lature, regular session, one thousand nine hundred seventeen,
as amended by section twenty-four, chapter one hundred sixty-
seven, acts of the Legislature, regular session, one thousand
nine hundred twenty-one, and as amended by section twenty-
four, chapter one hundred one, acts of the Legislature, regular
session, one thousand nine hundred thirty-one, and as amended
by section twenty-four, chapter one hundred forty-two, acts of
the Legislature, regular session, one thousand nine hundred
thirty-five, be amended and reenacted to read as follows:

Section 1. Common Pleas Court of Cabell County Estab-
lished.—The common pleas court of Cabell county, as
created and established by chapter ninety, acts of the
Legislature, regular session, one thousand nine hundred
seventeen, by amending chapter twenty-eight, acts of
the Legislature, regular session, one thousand eight hun-
dred ninety-three, is hereby established and created for
the intent and purpose of being a court of limited juris-
diction with common and concurrent jurisdiction with
the circuit court of Cabell county, within said county, in
criminal, civil and equitable actions and causes.

Sec. 2. Jurisdiction; Supervision, Etc., of Criminal and
Civil Cases Before Justices, Etc.—That said court shall
have jurisdiction within said county, common and con-
current with the circuit court, of all felonies and misde-
meanors committed within said county, and shall have the
supervision and control of criminal and civil proceedings
before justices of said county, the police judge or mayor
of any incorporated city, town or village therein, by ap-
peal, mandamus, prohibition and certiorari; the said court
shall have original jurisdiction within said county con-
current with the circuit court of Cabell county of all suits
and proceedings in equity, except where it shall appear
from the pleadings that the matter in controversy exceeds
the value of five hundred thousand dollars and actions of
ejectment, and of all other civil actions or proceedings at
law, except where it shall appear from the pleadings that
the matter in controversy exceeds the value of one thou-
sand dollars; and also appellate jurisdiction in all cases,
civil and criminal, from judgments of justices of the peace in said county, police judge or mayor of any incorporated city, town or village, or of any inferior tribunal therein, wherein an appeal, writ of error, supersedeas or writ of certiorari may be allowed; subject to the right to proceed by appeal, writ of error, supersedeas or certiorari in all matters to the circuit court of Cabell county, as provided in section fifteen, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, and section twenty-six, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen.

Sec. 24. Salary of Judge.—The judge of the common pleas court of Cabell county shall receive for his services seven thousand two hundred dollars annually, payable monthly in installments beginning on the first day of July, one thousand nine hundred forty-nine, which amount shall be provided for and paid by the county court, out of the treasury of said county, which provision as to salary shall not repeal the existing provision until the said first day of July, one thousand nine hundred forty-nine. All acts or parts of acts inconsistent or in conflict with this act are hereby repealed.

CHAPTER 140
(House Bill No. 200—By Mr. Campbell, of Cabell, and Mr. Leap)

AN ACT to amend and reenact sections one, two and four; chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as amended, by chapter one hundred fifty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the creation and establishment in the county of Cabell, of a court to be known as the “Domestic Relations Court,” the jurisdiction of said court, and the salary of the judge thereof.
Section 1. Cabell county domestic relations court created.

Section 2. Jurisdiction.

Section 3. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as amended by chapter one hundred fifty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 1. Cabell County Domestic Relations Court Created.—There is hereby created and established in and for the county of Cabell, with authority and jurisdiction co-extensive with the county, a court to be known as the "Domestic Relations Court" of Cabell county, for the trial of annulment of marriages, separate maintenance suits, divorces, alimony causes, the care and disposition of delinquent, defective, neglected and dependent children, and desertion and non-support of wives and children, adoption, and for the enforcement of the general school laws, arising within the said county or coming within the jurisdiction of the court as provided by the general laws of this state and as hereinafter provided; and independent of the foregoing for the trial of certain chancery causes, as hereinafter limited and defined, it being the intent and purpose of this act to create a court of limited jurisdiction for the purposes herein set forth.

Sec. 2. Jurisdiction.—The said domestic relations court shall have jurisdiction within the said county of Cabell, concurrent with the circuit court, of all matters and causes arising out of or pertaining to annulment of marriages, separate maintenance suits, divorce, alimony, the custody and maintenance of children of litigants and the adjudication of property rights arising out of the same, and all other matters and causes coming within the purview of chapter forty-eight of the code of West Virginia, one
10 thousand nine hundred thirty-one, and of all amendments and reenactments thereof concerning domestic relations; of all matters and causes coming within the purview of chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, one thousand nine hundred thirty-six, and of all amendments and reenactments thereof commonly known as the child welfare law; of all matters and causes coming within the purview of chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, and all amendments and reenactments thereof, commonly called the general school law; of all matters and causes coming within the purview of chapter forty-eight of the code of the West Virginia, one thousand nine hundred thirty-one, and of all amendments and reenactments thereof, commonly known as the adoption law; and of all matters and causes coming within the purview of all other or future acts of the Legislature touching the subject matter and of any and all said laws, laws and acts of the amendments and reenactments thereof, and of the common law of said state relating to the subject matter thereof. Independently of any of the foregoing matters, the said domestic relations court shall also have and is hereby given general equity jurisdiction concurrent with the circuit court, excepting in cases involving the enforcement of criminal laws and labor disputes, and excepting cases where it shall appear from the pleadings that matter or thing in controversy exceeds in value the sum of one hundred thousand dollars. The proceedings and modes of procedure and power and jurisdiction conferred by law upon the circuit court or the common pleas court in any and all of said matters and causes are hereby conferred upon and shall be exercised by said domestic relations court.

Sec. 4. Salary of Judge.—The judge of the domestic relations court of Cabell county shall receive for his services seven thousand two hundred dollars, annually, payable monthly in installments beginning on the first day of July, one thousand nine hundred forty-nine, which
6 amount shall be provided for and paid by the county
7 court, out of the treasury of said county, which provi-
8 sion as to salary shall not repeal the existing provision
9 until the said first day of July, one thousand nine hun-
10 dred forty-nine.
11 All acts or parts of acts inconsistent or in conflict with
12 this act are hereby repealed.

CHAPTER 141
(House Bill No. 91—By Mr. Leap and Mr. Campbell, of Cabell)

AN ACT to amend and reenact section eight, chapter one hun-
dred sixty-eight, acts of the Legislature of West Virginia,
regular session, one thousand nine hundred twenty-one, as
amended by chapter one hundred thirty-five, acts of the
Legislature, regular session, one thousand nine hundred
twenty-nine, relating to the time of holding terms of court
of the domestic relations court of Cabell county.

[Passed February 11, 1949; in effect July 1, 1949. Approved by the Governor.]

Section
8. Terms of domestic relations court.

Be it enacted by the Legislature of West Virginia:

That section eight, chapter one hundred sixty-eight, acts
of the Legislature of West Virginia, regular session, one thou-
sand nine hundred twenty-one, as amended by chapter one
hundred thirty-five, acts of the Legislature, regular session, one
thousand nine hundred twenty-nine, be amended and reenacted
to read as follows:

Section 8. Terms of Domestic Relations Court.—There
2 shall be regularly continued and held four terms of the
3 domestic relations court of Cabell county, West Virginia,
4 each year, beginning respectively on the first Monday
5 in March, June, September and December.
CHAPTER 142

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

AN ACT creating the Tri-State Airport Authority, providing for membership therein, for the acquisition by it of real estate and personal property and the construction, maintenance and operation of an airport, granting it the power of eminent domain and tax exemption for its property, funds and obligations, and providing for contributions to its funds and the issuance of revenue bonds.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]

Section 1. Tri-state airport authority authorized.
2. Authority a corporation.
3. Purposes.
4. Members of authority.
5. Powers.
6. Participation.
7. Funds and accounts.
8. Property, bonds and obligations of authority exempt from taxation.
9. Sale or lease of property.
10. Employees to be covered by workmen's compensation.
11. Liberal construction of act.

Be it enacted by the Legislature of West Virginia:

Section 1. Tri-State Airport Authority Authorized.—The county court of Cabell county, the city of Huntington of Cabell and Wayne counties, the county court of Wayne county, the city of Kenova, in Wayne county, and the town of Ceredo, in Wayne county, or any one or more of them, jointly and severally, are hereby authorized to create and establish a public agency to be known as the "Tri-state Airport Authority" in the manner and for the purposes hereinafter set forth.

Sec. 2. Authority a Corporation.—The authority when created, and the members thereof, shall constitute a public corporation and as such shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.
Sec. 3. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, maintain, and operate an airport or landing field and appurtenant facilities in Wayne county on Twelve Pole creek, west of the corporate limits of the city of Huntington and south of the corporate limits of the city of Kenova and the town of Ceredo, to serve the tri-state area in which it is located.

Sec. 4. Members of Authority.—The management and control of the Tri-state Airport Authority, its property, operations, business and affairs shall be lodged in a board of nine or more persons who shall be known as members of the authority and who shall be appointed for terms of three years each by the public and private corporations contributing to the funds of the authority, in such proportion and manner as may from time to time be provided in the by-laws adopted by the authority; provided that the first board shall be appointed as follows:

1. The county court of Cabell county shall appoint two members for terms of two and three years, respectively;
2. The city of Huntington shall appoint two members for terms of two and three years, respectively;
3. The county court of Wayne county shall appoint two members for terms of one and two years, respectively;
4. The city of Kenova shall appoint one member for the term of three years;
5. The town of Ceredo shall appoint one member for the term of one year;
6. Huntington industrial corporation, a non-profit civic corporation, which has contributed funds to the project, shall appoint one member for the term of one year.

Sec. 5. Powers.—The Tri-State Airport Authority is hereby given power and authority as follows:

1. To make and adopt all necessary by-laws, rules and regulations for its organization and operations not inconsistent with law;
(2) To increase the number of members of the authority;
(3) To elect its own officers, to appoint committees and to employ and fix the compensation for personnel necessary for its operation;
(4) To enter into contracts with any person, firm or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, constructing, maintaining and operating an airport as aforesaid;
(5) To delegate any authority given to it by law to any of its officers, committees, agents or employees;
(6) To apply for, receive and use grants in aid, donations and contributions from any sources;
(7) To take or acquire lands by purchase, holding title thereto in its own name; or failing to agree with the owner or owners thereof the authority may exercise the power of eminent domain in the manner provided for condemnation proceedings by chapter fifty-four of the code of West Virginia.
(8) To purchase, own, hold, sell and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes;
(9) To borrow money;
(10) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, it being hereby expressly provided that the Tri-State Airport Authority is a "municipal authority" within the definition of that term as used in said article four-a, chapter eight of the code; and
(11) To extend its funds in the execution of the powers and authority hereby given.
Sec. 6. Participation.—The county court of Cabell county, the city of Huntington of Cabell and Wayne counties, the county court of Wayne county, the city of Kenova, the town of Ceredo, or any one or more of them, jointly and severally, are hereby authorized and empowered to appoint members of the said authority and to contribute to the cost of acquiring, constructing, equipping, main-
taining and operating the said airport and appurtenant
facilities.

Any of the foregoing county courts or municipal cor-
porations is hereby authorized and empowered to transfer
and convey to the said authority property of any kind
heretofore acquired by said county court or municipal
corporation for airport purposes.

Sec. 7. Funds and Accounts.—Contributions may be
made to the authority from time to time by the various
bodies contributing to its funds and shall be deposited in
such bank or banks as a majority of the members of the
authority may direct and shall be withdrawn therefrom
in such manner as the authority may direct.

The authority shall keep strict account of all of its
receipts and expenditures and shall make quarterly re-
ports to the public and private bodies contributing to its
funds containing an itemized account of its operations in
the preceding quarter. The accounts of the authority
shall be regularly examined by the state tax commissioner
in the manner required by article nine, chapter six of the
code of West Virginia.

Sec. 8. Property, Bonds and Obligations of Authority
Exempt from Taxation.—The authority shall be exempt
from the payment of any taxes or fees to the state or any
subdivisions thereof or to any officer or employee of
the state or other subdivision thereof. The property of
the authority shall be exempt from all local and mu-
icipal taxes. Bonds, notes, debentures and other evi-
dence of indebtedness of the authority are declared to be
issued for a public purpose and to be public instrument-
alities, and, together with interest thereon, shall be ex-
empt from taxes.

Sec. 9. Sale or Lease of Property.—In the event all of
the public corporations contributing to the funds of the
authority shall so determine the authority shall make
sale of all of its properties and assets and distribute the
proceeds thereof among those contributing to its funds;
or in the event such of the supporting corporations con-
tributing a majority of the funds of said authority shall so
determine the authority may lease all of its property and
equipment upon such terms and conditions as the au-
thority may fix and determine.

Sec. 10. Employees to be Covered by Workmen’s Com-
pensation.—All employees of the authority eligible there-
to shall be deemed to be within the Workmen’s Compensa-
tion Act of West Virginia and premiums on their com-
ensation shall be paid by the authority as required by
law.

Sec. 11. Liberal Construction of Act.—It is the purpose
of this act to provide for the acquisition, construction,
maintenance and operation of an airport in a prudent and
economical manner and this act shall be liberally con-
strued as giving to the authority full and complete power
reasonably required to give effect to the purposes hereof.
The provisions of this act are in addition to and not in
derogation of any power existing in the county courts and
municipal corporations herein named under any consti-
tutional, statutory or charter provisions which they or
either of them may now have, or may hereafter acquire
or adopt.

Sec. 12. Provisions Severable.—The several sections
and provisions of this act are severable, and if any section
or provision hereof shall be held unconstitutional, all the
remaining sections and provisions of the act shall never-
theless remain valid.

CHAPTER 143

(House Bill No. 47—By Mrs. Walker)

AN ACT to authorize and empower the county court of Fayette
county to transfer the unexpended balances in the dog
tax fund to the general county fund of said county.

[Passed February 16, 1949; in effect from passage. Approved by the Governor.]

Section
1. Fayette county court authorized to transfer dog tax fund.
Be it enacted by the Legislature of West Virginia:

Section 1. Fayette County Court Authorized to Transfer Dog Tax Fund.—The county court of Fayette county is hereby authorized and empowered to transfer the unexpended balances now in the dog tax fund of said county remaining, and not needed for the payment and satisfaction of all claims and expenses against said dog tax fund, to the general county fund.

The county court of Fayette county is hereby authorized and empowered to transfer and expend, from time to time and as it may appear necessary and advisable, any part of the dog tax fund to the general county fund, and to be used and expended as a part of the general county fund, providing that at least five hundred dollars shall remain in the dog tax fund for the payment and satisfaction of all claims and expenses against said dog tax fund.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Fayette county.

CHAPTER 144

(Senate Bill No. 174—By Mr. Taylor, of Fayette)

AN ACT authorizing the common council of the municipality of Fayetteville, Fayette county, to immediately enter into a contract for the purchase of a fire truck and necessary fire-fighting equipment for immediate and continuing fire protection, and to authorize and empower the council to obligate the revenues of the municipality for said purpose for the fiscal year beginning July first, one thousand nine hundred forty-nine, not to exceed the sum of two thousand five hundred dollars.

[Passed March 12, 1949; in effect ninety days from passage. Approved by the Governor.]

Section 1. Town of Fayetteville authorized to obligate revenues for purchase of fire fighting equipment.
Be it enacted by the Legislature of West Virginia:

Section 1. **Town of Fayetteville Authorized to Obligate Revenues for Purchase of Fire Fighting Equipment.**—
The common council of the municipality of the town of Fayetteville, Fayette county, is hereby authorized and empowered to immediately enter into a contract for the purchase of a needed fire truck and fire-fighting equipment for immediate and continued fire protection for the municipality, and in order to meet the full and complete purchase price for said fire truck and fire-fighting equipment said council is hereby further authorized and empowered, as a part of said contract, to obligate the revenues of the municipality for the fiscal year beginning July first, one thousand nine hundred forty-nine, in an amount up to but not exceeding the sum of twenty-five hundred dollars.

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CHAPTER 145

(House Bill No. 314—By Mr. Kidd)

AN ACT authorizing the county court of Gilmer county, West Virginia, to pay the sum of one thousand six hundred dollars, from the general fund of said county, to the Gilmer County Volunteer Fire Department, Inc., or the creditors thereof, for the purpose of paying the indebtedness of said volunteer fire department occasioned by the purchase of fire-fighting equipment.

[Passed February 28, 1949; in effect from passage. Approved by the Governor.]

Section 1. **Gilmer county court authorized to pay indebtedness of Gilmer county volunteer fire department.**

Be it enacted by the Legislature of West Virginia:

Section 1. **Gilmer County Court Authorized to Pay Indebtedness of Gilmer County Volunteer Fire Department.**—The county court of Gilmer county, West Virginia, is hereby authorized to pay from the general county
HARDY COUNTY—SPECIAL JAIL FUND

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The sum herein authorized to be expended by the Gilmer county court is in consideration of the said volunteer fire department using the said equipment and other fire-fighting equipment owned by it for fire protection and fire-fighting throughout Gilmer county.

CHAPTER 146
(Senate Bill No. 178—By Mr. Bean)

AN ACT to authorize the county court of Hardy county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special fund for the building of a new jail, and to expend for such purposes the fund so created.

[Passed February 25, 1949; in effect from passage. Approved by the Governor.]

Section 1. Hardy county court authorized to create a special jail fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Hardy County Court Authorized to Create a Special Jail Fund.—The county court of Hardy county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surplus in the general county fund for the purpose of creating a special fund for the building of a new jail, and said county court is also authorized to expend for such purposes the funds so created.
AN ACT to amend and reenact chapter one hundred seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the authorization of the judge of the thirteenth judicial circuit of West Virginia to appoint a law assistant, fixing his qualifications and salary, and requiring the county court of Kanawha county to provide the manner of payment of such salary.

[Passed February 17, 1949; in effect July 1, 1949. 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 seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 1. Law Assistant for Thirteenth Judicial Circuit; Qualifications; Salary.—On or after the effective date of this act, the judge of the circuit court of Kanawha county, West Virginia, (thirteenth judicial circuit), may appoint a law assistant, who shall be a person duly licensed to practice law in this state, and who shall discharge such secretarial duties as may be assigned 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 five thousand dollars nor more than six 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.
AN ACT to amend and reenact section eight, chapter one hundred seventy-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, relating to the domestic relations court of Kanawha county.

[Passed February 11, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 8. Terms of court; maturity of causes; procedure; appointment of probation staff, medical, clerical and secretarial assistants and fixing salaries.

Be it enacted by the Legislature of West Virginia:

That section eight, chapter one hundred seventy-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 8. Terms of Court; Maturity of Causes; Procedure; Appointment of Probation Staff, Medical, Clerical, and Secretarial Assistants and Fixing Salaries.—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 continued 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 authority, in vacation of the court, to make and enter such proper orders in any matter, suit, action, petition or proceeding pending in the court as the judges of the circuit courts have under the laws of the state. All matters arising 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 vacation: 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
commissioners, commissioners in chancery, special com-
missoners, jury commissioners, and probation officers,
and such medical, clerical and secretarial assistance as
shall enable the court to discharge all the duties required
of it under the provision of this act, and the general laws
of the state. The judge may appoint a chief probation
officer, assistant probation officers, and necessary medi-
cal, clerical, secretarial and other necessary assistants
to be paid by the county court. Such appointments shall
be made by the judge and the appointees shall serve
during the pleasure of the judge.

The chief probation officer shall receive as compensa-
tion for his or her services an annual salary of not less
than twenty-four hundred dollars nor more than forty-
eight hundred dollars to be determined by the judge.
Assistant probation officers and medical assistants shall
receive as compensation an annual salary of not less than
two thousand dollars nor more than three thousand dol-
ers to be determined by the judge. Clerical and secre-
tarial assistants shall receive as compensation for his or
her services an annual salary of not less than eighteen
hundred dollars nor more than twenty-seven hundred
dollars to be determined by the judge. In addition to
the annual salary herein provided for the chief probation
officer and each assistant probation officer and medical
assistants, they shall be reimbursed by the county court
by reason of his or her necessary expenses actually in-
curred in the performance of official duties including an
allowance of seven cents a mile for his or her automobile
driven in the performance of official duties. The appoint-
ment of the chief probation officer, assistant probation
officers, medical, clerical and secretarial assistants, when
made by the judge, shall be entered on the order book of
the court. A copy of the order of appointment shall be
transmitted to the clerk of the county court. Thereupon,
the county court shall make provision for payment and
shall pay the salaries of the chief probation officer, as-
sistant probation officers, medical, clerical and secretarial
assistants as shown by the order of appointment. The
annual salaries provided for in said order of appointment
shall be paid in equal monthly installments. Expenses
and mileage accounts of the chief probation officer, as-
istant probation officers, and medical assistants shall
be itemized and verified and presented to and paid by
the county court, if such accounts are approved by the
judge. The county court shall provide such office space,
equipment and supplies for the probation staff, clerical,
secretarial and medical assistants as the judge shall deem
necessary and adequate.

The judge shall maintain a political balance between
the two major political parties of Kanawha county in
his appointments of divorce commissioners, commission-
ers in chancery and special commissioners, so that at no
time will the number of either divorce commissioners or
commissioners 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
provision for reference of such divorce and other mat-
ters as may be proper from time to time to said commis-
sioners in rotation so as to effect insofar 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 promul-
gated by the supreme court of appeals of this state.

CHAPTER 149

(Senate Bill No. 195—By Mr. Love)

AN ACT to amend and reenact section nine, chapter ninety-
four, 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 Kanawha county, West Virginia.

[Passed March 11, 1949; in effect ninety days from passage. Approved by the Governor.]

Section


Be it enacted by the Legislature of West Virginia:

That section nine, chapter ninety-four, 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 of Kanawha County, West Virginia.—The judge of the intermediate court of Kanawha county, West Virginia, beginning on the first day of January, one thousand nine hundred fifty-one, shall receive as a salary for his services as judge of said court the sum of eight thousand five hundred dollars per annum, payable out of the county treasury of said Kanawha county, in equal monthly installments, as the salaries of the other officers of said county are paid. The salary of said judge shall continue as provided in section nine, chapter ninety-four, of the acts of the Legislature, regular session, one thousand nine hundred twenty-seven, until the first day of January, one thousand nine hundred fifty-one.

CHAPTER 150

(House Bill No. 40—By Mr. Doringer)

AN ACT to amend and reenact section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as last amended by section twenty-one, chapter eighty-
two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, all relative to the salary of the judge of the criminal court of Marion county.

[Passed March 12, 1949; in effect July 1, 1949. Approved by the Governor.]

Section 4. Salary of Marion county criminal court judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as last amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 4. Salary of Marion County Criminal Court Judge.—The judge of said criminal court shall receive for his services a salary of six thousand dollars per year, said amount to be fixed and paid from year to year by the county court of said county, out of the funds of said county, as provided by statute.

CHAPTER 151
(Senate Bill No. 213—By Mr. Jones)

AN ACT to authorize and empower the county court of Mason county to transfer the unexpended balances in the dog tax fund to the general county fund of said county.

[Passed February 25, 1949; in effect from passage. Approved by the Governor.]

Section 1. Mason county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Mason County Court Authorized to Transfer Dog Tax Fund.—The county court of Mason county is
hereby authorized and empowered to transfer the unex-
4 pended balances now in the dog tax fund of said county
5 remaining, and not needed for the payment and satis-
6 faction of all claims and expenses against said dog tax fund,
7 to the general county fund.
8 The county court of Mason county is hereby authorized
9 and empowered to transfer and expend, from time to
time and as it may appear necessary and advisable, any
11 part of the dog tax fund to the general county fund, and
12 to be used and expended as a part of the general county
13 fund, providing that at least five hundred dollars shall
14 remain in the dog tax fund for the payment and satis-
15 faction of all claims and expenses against said dog tax
16 fund.
17 All acts or parts of acts inconsistent herewith are hereby
18 repealed, insofar as they may apply to Mason county.

CHAPTER 152

(House Bill No. 364—By Mr. Cline)

AN ACT to authorize and empower the county court of Mingo
county to transfer the unexpended balances in the dog tax
fund to the general county fund of said county.

[Passed March 5, 1949; in effect ninety days from passage. Approved by the
Governor.]

Section
1. Mingo county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Mingo County Court Authorized to Transfer* 
2 *Dog Tax Fund.*—The county court of Mingo county is
3 hereby authorized and empowered to transfer the unex-
4 pended balances now in the dog tax fund of said county
5 remaining, and not needed for the payment and satis-
6 faction of all claims and expenses against said dog tax
7 fund, to the general county fund.
8 The county court of Mingo county is hereby authorized
and empowered to transfer and expend, from time to time
and as it may appear necessary and advisable, any part
of the dog tax fund to the general county fund, the same
to be used and expended as a part of the general county
fund, providing that sufficient funds shall remain in the
dog tax fund for the payment and satisfaction of all
claims and expenses against said dog tax fund.
All acts or parts of acts inconsistent herewith are here-
by repealed, insofar as they may apply to Mingo County.

CHAPTER 153
(House Bill No. 363—By Mr. Cline)

AN ACT to authorize and empower the county court of Mingo
county to transfer from the teachers' fund of the Mingo
county school district to the general county fund of said
county all the unexpended balances of funds which have
been secured through dog taxes and which have been paid
into and credited to the said school fund.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]

Section
1. Transfer of funds by Mingo county court.

Be it enacted by the Legislature of West Virginia:

Section 1. Transfer of Funds by Mingo County Court.—
2 The county court of Mingo county is hereby authorized
3 and empowered to transfer from the teachers' fund of
4 the Mingo county school district to the general fund of
5 said county all the unexpended balances of funds which
6 have been secured through dog taxes and which have
7 been paid into and credited to the said school fund.
8 All acts or parts of acts inconsistent herewith are
9 hereby repealed, insofar as they may apply to Mingo
10 county.
AN ACT to amend and reenact chapter one hundred eleven, acts of the Legislature of West Virginia, one thousand nine hundred forty-seven, relating to the authority of the county court of Monongalia county to use unexpended funds or surpluses in any fund of said county for the 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, or for the purpose of removing existing deficits, the fund already so accumulated, or any additional or other fund so created.

[Passed March 11, 1949; in effect from passage. Approved by the Governor.]

Section 1. Monongalia county court authorized to create a special courthouse and buying and building fund 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, to remove existing deficits, 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-seven, be amended and reenacted to read as follows:

Section 1. Monongalia County Court Authorized to Create a Special Courthouse and Buying and Building Fund 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, to Remove Existing Deficits, 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, or for the removal of existing deficits, the fund already so accumulated, and use for such purposes any additional or other funds so created.

CHAPTER 155
(House Bill No. 213—By Mr. Dawson)

AN ACT to authorize and empower the county court of Morgan county to transfer the unexpended balances in the dog tax fund to the general county fund of said county.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]

Section
1. Morgan county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Morgan County Court Authorized to Transfer Dog Tax Fund.—The county court of Morgan county is hereby authorized and empowered to transfer the unexpended balances now in the dog tax fund of said county remaining, and not needed for the payment and satisfaction of all claims and expenses against said dog tax fund, to the general county fund.

The county court of Morgan county is hereby authorized and empowered to transfer, from time to time and as it may appear necessary and advisable, any part of the dog tax fund to the general county fund, the same to be used and expended as a part of the general county fund: Provided, That sufficient funds shall remain in the dog tax fund for the payment and satisfaction of all claims and expenses against said dog tax fund.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Morgan county.
CHAPTER 156

(House Bill No. 43—By Mr. Burt)

AN ACT to authorize the board of commissioners of the county of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and a county building, providing for the leasing of temporary quarters during the construction of any county building, and for the construction, equipment and maintenance of any county building in conjunction with the city of Wheeling.

[Passed February 16, 1949; in effect from passage. Approved by the Governor.]

Section 1. Board of commissioners of the county of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and a county building.

2. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Board of Commissioners of the County of Ohio Authorized to Lay an Additional Levy, and to Use Proceeds Therefrom for Construction and Maintenance of an Airport and a County Building.—For a period of five years commencing with the fiscal year one thousand nine hundred fifty—one thousand nine hundred fifty-one, in addition to the levies heretofore authorized to be laid by county courts for general county current expense, and for the payment of interest and sinking fund requirements on bonded indebtedness incurred subsequent to the passage of the tax levy limitation amendment, the board of commissioners of the county of Ohio is hereby authorized and empowered to lay such additional levy as may not be required for bonded indebtedness, on all of the property in Ohio county, but not to exceed four and nine tenths cents on each one hundred dollars' assessed valuation on class I property; nine and eight-tenths cents on class II property; and nineteen and six-tenths cents on classes III and IV property. The proceeds of said levy shall be placed in a separate fund designated “Public Improvement Fund”, to be used solely for the construc-
22 tion, equipment and maintenance of an airport, and a
23 county building, and for the leasing of temporary quar-
24 ters for a county building during any construction period.
25 Any such county building may be constructed, equipped
26 and maintained in conjunction with the city of Wheeling.

Sec. 2. Inconsistent Acts Repealed.—All acts and parts
2 of acts inconsistent or in conflict herewith, insofar as the
3 same may be applicable to the county of Ohio, or the said
4 board of commissioners of the county of Ohio, are hereby
5 repealed.

CHAPTER 157
(House Bill No. 366—By Mr. Burt)

AN ACT to amend and reenact section seven of an act entitled
"An act to establish a county court and a board of commis-
sioners of Ohio county, under the thirty-fourth section of
the eighth article of the constitution of the state of West
Virginia", approved December thirty-first, one thousand
eight hundred seventy-two, as amended by acts of the
Legislature, one thousand nine hundred nine, and as fur-
ther amended, by chapter one hundred thirty-two, acts of
the Legislature, one thousand nine hundred twenty-three.

[Passed March 11, 1949; in effect July 1, 1949. Approved by the Governor.]

Section
7. Board of commissioners of Ohio county; meetings; compensation;
powers.

Be it enacted by the Legislature of West Virginia:

That section seven of an act entitled "An act to establish a
county court and a board of commissioners of Ohio county,
under the thirty-fourth section of the eighth article of the con-
stitution of the State of West Virginia", approved December
thirty-first, one thousand eight hundred seventy-two, as amend-
ed by the acts of the Legislature, one thousand nine hundred
nine, and as further amended by chapter one hundred thirty-
two, acts of the Legislature, one thousand nine hundred twenty-three, be amended and reenacted to read as follows:

Section 7. Board of Commissioners of Ohio County;
Meetings; Compensation; Powers.—The commissioners elected as provided in section five shall constitute a board, to be known as "the Board of Commissioners of the County of Ohio", by which name they may sue and be sued, and make and use a common seal, and enact ordinances and by-laws not inconsistent with the laws of this state. They will meet steadily on the first Monday in every month, at the court house of their county, and may hold special and adjourned meetings at any time after their first meeting after election. They shall elect one of their number president of the board, and appoint a clerk, who shall hold his office at their pleasure, and shall keep a journal of their proceedings, including a record of their ordinances in a volume separate from the journal of their proceedings, and shall perform such other services pertaining to his office as may be by them or by law required; and whose compensation shall be forty-two hundred dollars annually, which salary shall be paid from the county treasury and no fees or additional salary shall be received by said clerk. The said board shall have the same powers now vested in the board of commissioners of Ohio county as to the superintendence and administration of the internal police and fiscal affairs of the county, including the establishment and regulation of roads, ways, bridges, public landings, ferries and mills, the granting of ordinary and other licenses, with authority to lay and disburse the county levies. The board shall, in all contested cases, judge of the election, qualification and returns of its own members, and of all county and district officers; and it shall exercise such other jurisdiction and perform such other duties as may be prescribed by law. The said commissioners shall each receive a compensation of thirty-five hundred dollars annually, which salary shall be paid from the county treasury and no fees, commissions or additional salary shall be received by any of said commissioners.
Any commissioner may be indicted for malfeasance, misfeasance or neglect of official duty, and, upon conviction thereof, his office shall become vacant. A vacancy in the board of commissioners, whether from resignation, removal from the subdivision from which he was elected, removal from office, death or other cause, shall be filled by the remaining members of the board. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 158

AN ACT to amend and reenact section three, chapter one hundred fifty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to increased levies by the county court of Raleigh county for parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers.

[Passed February 16, 1949; in effect from passage. Approved by the Governor.]

Section 3. Increase levies.

Be it enacted by the Legislature of West Virginia:

That section three, chapter one hundred fifty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 3. Increased Levies.—In addition to the issuance and sale of bonds for the purposes aforesaid, the county court of Raleigh county may provide funds for any of the purposes aforesaid by increased levies when authorized in the manner prescribed by article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, or any amendments thereunto.
CHAPTER 159

(House Bill No. 382—By Mr. Morgan)

AN ACT to amend chapter one hundred fifteen, acts of Legislature, regular session, one thousand nine hundred forty-three, by adding thereto a new section one-a, relating to the county court of Upshur county accepting title to the Alfred Anderegg property, or any other property, to be maintained and operated as a part of the Four-H Camp program.

[Passed March 9, 1949; in effect from passage. Approved by the Governor.]

Section 1-a. Upshur county court authorized to accept Alfred Anderegg property, or any other property, to be maintained and operated as part of the Four-H Camp program.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred fifteen, acts of Legislature, regular session, one thousand nine hundred forty-three, be further amended, by adding thereto a new section one-a, to read as follows:

Section 1-a. Upshur County Court Authorized to Accept Alfred Anderegg Property, or any Other Property, to be Maintained and Operated as Part of the Four-H Camp Program.—The county court of Upshur county is hereby authorized to accept title to the Alfred Anderegg property, consisting of one hundred and twenty-five acres, more or less, and improvements thereon, now held in trust for this purpose, in name of Jerome V. Hall, trustee, or any other property, located at Selbyville, Upshur county, to be maintained and operated by the county court as a part of, and in connection with the Four-H Camp program, as authorized by this chapter.

CHAPTER 160

(Senate Bill No. 256—By Mr. McKown)

AN ACT to authorize the board of education of Wayne county to pay F. M. Cassell, former coach of Wayne county high
school, money expended by him for the reconditioning of athletic equipment for use in and about said high school.

[Passed March 11, 1949; in effect from passage. Approved by the Governor.]

Section

1. Board of education of Wayne county authorized to pay certain money to F. M. Cassell, former coach of Wayne county high school.

Be it enacted by the Legislature of West Virginia:

Section 1. Board of Education of Wayne County Authorized to Pay Certain Money to F. M. Cassell, Former Coach of Wayne County High School.—The board of education of Wayne county, West Virginia, is hereby authorized to pay to F. M. Cassell, former coach of Wayne county high school, the sum of four hundred forty-eight dollars to cover the amount expended by him, including interest to July first, one thousand nine hundred forty-nine, for the reconditioning of athletic equipment for use in and about the Wayne county high school, but never reimbursed to him.

CHAPTER 161

(House Bill No. 354—By Mr. Tucker)

AN ACT to authorize the county court of Wayne county to convey to the town of Wayne, a municipal corporation, a memorial building and lot inside the corporate limits of said town, and to convey to the board of education of Wayne county, a body corporate, real estate within Westmoreland district of said Wayne county, purchased by the county court of said county, for the construction of a war memorial football stadium.

[Passed March 9, 1949; in effect from passage. Approved by the Governor.]

Section

1. Wayne county court hereby authorized to convey to the town of Wayne a memorial building and lot.
2. County court authorized to convey to the board of education of Wayne county real estate within Westmoreland district.
Be it enacted by the Legislature of West Virginia:

Section 1. Wayne County Court Hereby Authorized to Convey to the Town of Wayne a Memorial Building and Lot.—The county court of Wayne county, West Virginia, is authorized to convey and transfer to the town of Wayne, a municipal corporation, a memorial building and lot, located within the corporate limits of said town, to be operated or leased by said town of Wayne to the American Legion and/or Veterans of Foreign Wars, for the benefit of the veterans of World Wars I and II and for other public purposes.

Sec. 2. County Court Authorized to Convey to the Board of Education of Wayne County Real Estate Within Westmoreland District.—The said county court is hereby authorized to transfer and convey to the board of education of the county of Wayne real estate located within Westmoreland district of said county, that part of said real estate having been purchased by the said county court for the purposes of constructing a war memorial football stadium, as authorized by chapter one hundred seventy-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five.

CHAPTER 162

(House Bill No. 147—By Mr. Burt)

AN ACT to authorize and empower the city of Wheeling, a municipal corporation, to temporarily invest the proceeds of its July first, one thousand nine hundred forty, general obligation bonds and held by it for use in the construction, in conjunction with the board of commissioners of Ohio county, West Virginia, of a new city-county building for said city and county, in certain designated securities.

[Passed March 5, 1949; in effect from passage. Approved by the Governor.]

Section

2. Changes in investment.
3. Inconsistent acts repealed.
Be it enacted by the Legislature of West Virginia:

Section 1. Authorization of the City of Wheeling to Make Temporary Investment of Proceeds of Sale of Bonds Issued for Construction of City-County Building.—The city of Wheeling, a municipal corporation, is hereby authorized and empowered to temporarily invest the portion of the proceeds received by it from the sale of its one thousand nine hundred forty general obligation bonds issued for the construction, in conjunction with the board of commissioners of Ohio county, West Virginia, of a city-county building for said city and county, in bonds or obligations of the United States or in bonds of which both principal and interest are guaranteed by the United States, or in bonds of the state of West Virginia, or in bonds of any county, town, village or school district of the state of West Virginia: Provided, however, That before making such investment, the city of Wheeling shall obtain from the sinking fund commission of the state of West Virginia the approval in writing of said commission to the proposed investment.

Sec. 2. Changes in Investment.—The city of Wheeling, after obtaining like approval from the sinking fund commission of the state of West Virginia, may make such changes in said investment as may, in its judgment, be necessary for the safety and protection of the proceeds of said bond issue from time to time during the period that said proceeds are temporarily invested and until they are needed for the purposes for which said bonds were issued.

Sec. 3. Inconsistent Acts Repealed.—All acts, or parts of acts, inconsistent herewith, are hereby repealed.

CHAPTER 163
(Senate Bill No. 255—By Mr. Wylie)

AN ACT to establish a court of limited jurisdiction within the county of Wyoming, to be known and designated as the
"Criminal Court of Wyoming County," and prescribing the limitations therefor.

[Passed March 11, 1949; in effect July 1, 1949. Approved by the Governor.]

Criminal Court of Wyoming County.

Section
1. Court established.
2. Jurisdiction.
3. Judge; qualifications; election and term.
4. Powers and jurisdiction as to criminal cases.
5. Power to punish for contempt.
6. Supplies; seal, records of court and certificate of judge.
7. Clerk; powers, duties and compensation.
8. Salary of judge.
9. Compensation of sheriff; bailiff.
10. Terms of court.
11. Where court held.
12. Execution of process of court; duties of sheriff of Wyoming county; fees of sheriff.
14. Certification of cases to circuit court; election of special judge.
15. Appeals.
16. Petition to circuit court in appeals; hearing and determination.
17. Procedure on appeal.
18. Appeals to supreme court of appeals.
19. Affirming or reversing judgment or order by circuit court.
20. Contested elections.
22. Removal of judge.
23. Taxation of costs.
25. General criminal jurisdiction granted court.
27. Juries.
28. West Virginia reports and acts to be furnished judge.
29. Appointment of judge; first term of court.
30. Court reporter.

Be it enacted by the Legislature of West Virginia:

Section 1. Court Established.—A court of limited jurisdiction is hereby established within and for the county of Wyoming, to be held and presided over by a judge to be selected as hereinafter provided, which court shall be named and designated as the “Criminal Court of Wyoming County.”

Sec. 2. Jurisdiction.—The court shall have exclusive jurisdiction within the county of Wyoming concurrent with the circuit court of Wyoming county, in all criminal causes, both misdemeanor and felony, subject to the right
Sec. 3. Judge; Qualifications; Election and Term.—The judge of said court shall be a resident member of the bar of Wyoming county and shall have the same qualifications as a circuit judge. A judge shall be elected for said court at the general election in this state to be held on Tuesday after the first Monday in November, one thousand nine hundred fifty and every eight years thereafter, to be held by the legal voters of said county. His term of office shall be for eight years beginning on the first day of January next succeeding said election, and he shall, except as herein otherwise provided, be subject to the laws in force governing circuit judges.

Sec. 4. Powers and Jurisdiction as to Criminal Cases.—All powers and jurisdiction conferred by law upon circuit courts in the trial of criminal cases and proceedings, and the modes and procedures authorized therein, within the county of Wyoming, are hereby conferred upon and shall be exercised by the criminal court of Wyoming county, and the judge of said court shall have the same powers in vacation as are now, or may hereafter be, conferred upon the judge of the circuit court of Wyoming county in respect of cases, matters and proceedings within the jurisdiction of said criminal court.

Sec. 5. Power to Punish for Contempt.—The said criminal court shall have the same powers to punish for contempt as are conferred by law upon the circuit court.

Sec. 6. Supplies; Seal; Records of Court and Certificate of Judge.—The county court of Wyoming county shall provide all record books and other books and stationery that may be necessary, and likewise a seal for said criminal court. Full faith and credit shall be given to the records of said court and to the certificate of its judge or clerk, whether the seal of said court be affixed thereto or not, in like manner and with like effect as if the same were recorded in the circuit court, or certificate of the judge or clerk of the circuit court similarly authenticated.

Sec. 7. Clerk; Powers, Duties and Compensation.—The
clerk of the circuit court of Wyoming county shall be
ex officio clerk of the criminal court and perform the
duties thereof, and shall charge the same fees for the
same services as are now allowed by law for similar serv-
ices to the clerk of the circuit court, and in the discharge
of his duties as clerk of the criminal court he shall be sub-
ject to all statutes relating to the clerk of the circuit court.
Process and orders of the court, in the exercise of its
jurisdiction, shall be signed by the clerk thereof and be
directed to the sheriffs of the proper counties wherein
the same are to be executed, and they shall be executed
in like manner, and with the same effect, as process issu-
ing from the circuit court of said county. The clerk of the
circuit court shall not receive any additional personal
compensation for these services, except that prescribed
as his salary as clerk of the circuit court of said county
by the statutes that may now or hereafter be in effect.

Sec. 8. Salary of Judge.—The said judge for his serv-
ices shall receive six thousand dollars per annum, which
shall be paid monthly, in equal installments, from the
county treasury of Wyoming county.

Sec. 9. Compensation of Sheriff; Bailiff;.—The sheriff
shall be allowed the same compensation for attendance
upon said court as is now allowed for attendance upon
the circuit court, and the court bailiff of the circuit court
shall be the bailiff of the criminal court.

Sec. 10. Terms of Court.—There shall be four terms of
said court held in each year, commencing on the fourth
Monday of February, fourth Monday of May, fourth Mon-
day of August, and the fourth Monday of November. Ad-
journed and special terms of court may be called and
held as prescribed for special and adjourned terms of the
circuit court.

Sec. 11. Where Court Held.—Said terms of said court
shall be held in Pineville, in the county of Wyoming, at
the courthouse thereof.

Sec. 12. Execution of Process of Court; Duties of Sher-
iff of Wyoming County; Fees of Sheriff.—The sheriff of
Wyoming county and the sheriffs of the several counties
of the state shall, by themselves or their deputies, execute all process of said court, or issued by the clerk thereof, directed to them, respectively, and all process emanating from said court or issued by the clerk thereof shall be directed to and executed by them in the same manner as is provided by law as to process issuing from the circuit court or its clerk, and the sheriff of Wyoming county shall perform the same duties and services for the criminal court of Wyoming county as he now by law is required to perform for the circuit court of said county, and in the execution of process, rules and orders of said court the said officer 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, and be entitled to the same fees, as though the process issued from the circuit court of said county.

Sec. 13. Jurors; Impaneling and Compensation Thereof.—The grand jurors and the petit jurors for said court shall be chosen and impaneled in the same manner as they are chosen and impaneled in the circuit court, and shall receive the same compensation, subject to amendments of state laws involving the pay of jurors in felony cases.

Sec. 14. Certification of Cases to Circuit Court; Election of Special Judge.—If the judge of said court in his judgment, cannot properly preside at the hearing of any case pending therein, said case may, in his discretion, be certified to, and the original papers together with the copy of orders of said court, filed in the circuit court of said county, and the case shall be docketed therein and proceeded with therein, as though the case had originally been brought and proceedings therein had in the circuit court. When for any cause the judge of said criminal court is incapable of acting or is absent, a special judge may be elected in the same manner as a special judge for the circuit court, and he be governed in all respects so far as applicable by the laws governing special judges in the circuit court, and shall be allowed fifteen dollars a day for said services, to be paid out of the county treasury of Wyoming county.
Sec. 15. Appeals.—Appeals may be allowed, and writs of error and supersedeas awarded to the judgments, decrees and orders of said court by the circuit court of said county, or the judge thereof in vacation, in the following cases:

(1) In any criminal case wherein the right of appeal would have been had to the supreme court of West Virginia should the trial have been held in the circuit court of Wyoming county.

(2) In any case where there is an order granting a new trial or rehearing, and in such cases an appeal may be taken from the order without waiting for said new trial or rehearing to be had.

Sec. 16. Petition to Circuit Court in Appeals; Hearing and Determination.—Any person who is a party to any such controversy wishing to obtain an appeal, or writ of error in the cases named in the foregoing section may present to the circuit court of Wyoming county, or the judge thereof in vacation, a petition therefor and chapter fifty-eight of the code of West Virginia, insofar as it concerns appeals from court of record of limited jurisdiction shall, so far as applicable, govern the proceedings of such appeal, or writ of error as to the duties of the petitioner and the said court and clerk thereof: Provided, however, that such petition shall be heard and determined upon the original papers of the cause and the recorded orders and decrees in lieu of a transcript thereof, and in case of oral testimony having been taken in the case, a transcript thereof, duly certified by the stenographer, or other persons taking the same, shall be held and treated as part of the original papers, and the court may likewise consider an agreed statement of facts, and in case the evidence in the trial below was not taken down and preserved, a certificate of facts made by the judge of the criminal court may be considered.

Sec. 17. Procedure on Appeal.—Every appeal, or writ of error from said court shall be docketed in the circuit court of Wyoming county and shall be proceeded with in the same manner as appeals, or writs of error are proceeded in, heard and determined in the supreme court.
of appeals. Rules governing the procedure in these mat-
ters shall be promulgated by said circuit court.

Sec. 18. Appeals to Supreme Court of Appeals.—In a
case wherein the appeal or writ of error is to the circuit
court, and the court or judge thereof deems the judgment
or order plainly right, and rejects it on this ground, if
the order or rejectment so state, no further petition shall
afterwards be presented for the same purpose, but the
petition and order of rejectment with transcript of the
record may be presented to the supreme court of appeals,
or judges thereof in vacation, for an appeal from said
order of rejectment, if the matter is one of which said
supreme court of appeals has jurisdiction, and, if allowed,
the same proceedings may be had thereon as if the same
was a petition originally from the circuit court of said
county to the supreme court of appeals.

Sec. 19. Affirming or Reversing Judgment or Order by
Circuit Court.—The said circuit court, where an appeal,
writ of error or supersedeas has been allowed by the said
court or the judge thereof in vacation, shall, upon the
hearing thereof, affirm said judgment or order, if there be
no error therein prejudicial to the appellant, or reverse
the same whole or in part if erroneous, and if reversed,
remand the same back to said criminal court to be fur-
ther proceeded with and finally determined: Provided,
however, That from any action of the circuit court in
affirming or reversing any order or judgment of the crim-
inal court an appeal or writ of error shall lie to the su-
preme court of appeals.

Sec. 20. Contested Elections.—If the office of judge of
said court be contested, the contest shall be held and
determined in the same manner as the election of judges
of the circuit court are determined.

Sec. 21. Filling Vacancy in Office of Judge.—If from
any cause the office of judge of said court shall become
vacated, the vacancy shall be filled in the same manner
as in the case of vacancy in the office of judge of the cir-
quet court.
Sec. 22. Removal of Judge.—The judge of said court may be removed from office for the same reasons and in the same manner as judges of the circuit court.

Sec. 23. Taxation of Costs.—In the taxation of costs in said court, the clerk and court shall be governed by the same rules and provisions of law as are provided for the circuit court.

Sec. 24. Application of General Law to Court.—Chapter fifty-one of the code of West Virginia shall apply to the criminal court of Wyoming county in the same manner and to the same extent that it does to the circuit courts of the state, within the scope and purpose of this act.

Sec. 25. General Criminal Jurisdiction Granted Court.—Chapters sixty-one and sixty-two of the code of West Virginia shall apply to the criminal court of Wyoming county and to the judge thereof in vacation, in the same manner and to the same extent as to the circuit court of Wyoming county or the judge thereof in vacation, and the same powers may be exercised within the county of Wyoming by said court and the judge thereof in vacation, as are now exercised by the circuit court of said county provided for in said chapters.

Sec. 26. Extraordinary Remedies.—The criminal court of Wyoming county and the judge thereof in vacation shall, concurrent with the supreme court of appeals, circuit court of said county, or any judge of either of said courts in vacation, grant a writ of habeas corpus, ad subjiciendum, as provided in chapter fifty-three of the code of West Virginia, and all the provisions of said chapter shall be applicable thereto, and the same shall be governed as herein provided.

Sec. 27. Juries.—Chapter fifty-two of the code of West Virginia shall apply to said criminal court as it now applies to the circuit court of said county, within the scope and limit of this act.

Sec. 28. West Virginia Reports and Acts to Be Furnished Judge.—The West Virginia reports and bound acts
3 of the Legislature shall be delivered to the said judge of
4 said court, in the same manner as they are required to be
5 delivered to the circuit courts of this state.

Sec. 29. Appointment of Judge; First Term of Court.—
2 Within sixty days from the effective date of this act the
governor shall appoint a judge for said criminal court,
who shall act until the next general election, at which
time his successor shall be elected. The judge appointed
6 shall hold the first term of court on the fourth Monday
7 in August, one thousand nine hundred forty-nine.

Sec. 30. Court Reporter.—The judge of the criminal
court of Wyoming county is hereby authorized to employ
3 a court reporter, and the county court shall fix and pay
4 the salary of such court reporter.

CHAPTER 164
(Senate Bill No. 214—By Mr. Wylie)

AN ACT to authorize and empower the county court of Wyom­
ing county to transfer the unexpended balances in the dog
tax fund to the general county fund of said county.

[Passed March 4, 1949; in effect from passage. Approved by the Governor.]

Section
1. Wyoming county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Wyoming County Court Authorized to
2 Transfer Dog Tax Fund.—The county court of Wyoming
3 county is hereby authorized and empowered to transfer
4 the unexpended balances now in the dog tax fund of said
5 county, remaining and not needed for the payment and
6 satisfaction of all claims and expenses against the said
7 dog tax fund, to the general county fund of said county.
8 All acts, or parts of acts, inconsistent herewith, are
9 hereby repealed, insofar as they may apply to Wyoming
10 county.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1
(By Mr. McCoy)
[Adopted January 12, 1949.]
Raising a joint assembly to open and publish election returns.

Resolved by the House of Delegates, the Senate concurring therein:

That the two Houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 1:45 o'clock P. M., this day, that the Speaker of the House of Delegates may, in the present of the Senate, open and publish the returns of the election of governor and other state officers elected at the general election held throughout the state on the 2nd day of November, one thousand nine hundred forty-eight, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2
(By Mr. Matthews)
[Adopted January 12, 1949.]
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 2:00 o'clock P. M., this day to hear the biennial message of His Excellency, Governor Clarence W. Meadows.
HOUSE CONCURRENT RESOLUTION NO. 3  
(By Mr. Doringer)  
[Adopted January 12, 1949.]  
Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when adjournment is taken by the two Houses of the Legislature at the close of this day's session, such adjournment shall be until Tuesday, January 18, 1949, at 2:00 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 4  
(By Mr. Doringer)  
[Adopted January 18, 1949.]  
Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when adjournment is taken by the two Houses of the Legislature at the close of this day's session, such adjournment shall be until Monday, January 24, 1949, at 2:00 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 5  
(By Mr. Blankenship)  
[Adopted January 24, 1949.]  
Deploring the death of Dr. Joseph Franklin Marsh.

WHEREAS, The members of the forty-ninth Legislature have been advised of the death of Dr. Joseph Franklin Marsh on Saturday, January 15, 1949; and

WHEREAS, The deceased was a prominent educational leader in West Virginia, having served as Secretary of the State Board of Education and State Director of Vocational Education from 1919 to 1929; as president of Concord College from 1929 to 1945; as president emeritus of Concord from the date of his retire-
ment in 1945 to the time of his death; as president of the State Education Association; and

WHEREAS, During his services as Secretary of the State Board of Education, he was influential in elevating the state's normal schools to the status of fully accredited four year colleges; and

WHEREAS, Under his capable leadership as president, Dr. Marsh is credited with raising the educational standards of Concord from a normal school to a full four year college with an expanded curriculum and extensive physical improvements including the construction and equipping of a gymnasium, a library, an indoor swimming pool, two dormitories, a home economics cottage, modern homes for the president and faculty members, and expansion and beautification of campus grounds; and

WHEREAS, As an author, the deceased had written three books—a geography textbook on West Virginia, "The Teacher Outside the School," and "Successful West Virginians"; and

WHEREAS, Dr. Marsh, until the time of his death, was an active leader in civic and religious affairs, having served as president of the Charleston Rotary Club, immediate past president of the 185th District of Rotary International, Boy Scout official and an ardent supporter of church activities wherever he lived; and

WHEREAS, Concord College will soon have erected upon its campus a Memorial Chapel, according to a plan initiated and directed by the deceased; and

WHEREAS, The noble life and deeds of the deceased will continue to live not only in that which is tangible but in the lives of those whom he inspired; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the forty-ninth Legislature, being advised of the death of Dr. Joseph Franklin Marsh and fully conscious of the tragic loss of a successful West Virginia educator, author and civic leader, do hereby express our sincere heartfelt sympathies to 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 the House of Delegates shall adjourn today, they do so out of respect to the memory of the deceased.

Committee Substitute For

HOUSE CONCURRENT RESOLUTION NO. 6

(Originating in the House Committee on the Judiciary)

[Adopted February 10, 1949]

Memorializing the Congress for the enactment of legislation to extend and liberalize the present Federal Social Security Law.

WHEREAS, The Federal Social Security program has proved to be of great value to the citizens of this country in both an economic and humanitarian sense; and

WHEREAS, There are now many classes of employees who are not allowed to participate in this exemplary and beneficient program under the present Federal Social Security Law; and

WHEREAS, The President of the United States has recommended to Congress that the present Federal Social Security Law be extended and liberalized; and

WHEREAS, By act of the 1947 Legislature, Senate Bill No. 351, relating to the acceptance of future federal legislation by the State of West Virginia, permitting state and local public employees to secure coverage under the old age and survivors insurance provision of the Social Security Act, was enacted into law; and

WHEREAS, It has been ascertained that an extension and liberalization of the provisions of the present Federal Social Security Law is contemplated by the Eighty-First Congress of the United States; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:
That we approve the movement to secure an enactment of legislation by the Congress of the United States which will extend and liberalize the benefits of the present Federal Social Security program to include states and their political subdivisions and instrumentalities, and that we earnestly request our members of the Senate and House of Representatives to use all honorable means to secure the prompt enactment of such legislation at this session, and that a copy of this resolution be forwarded to the West Virginia members of the Senate and the House of Representatives, the President of the Senate, and the Speaker of the House of Representatives.

HOUSE CONCURRENT RESOLUTION NO. 8
(By Mr. Doringer)
[Adopted January 26, 1949.]
Providing for a joint assembly to hear an address of His Excellency, the Governor.

WHEREAS, His Excellency, the Governor, has advised the President of the Senate and the Speaker of the House of Delegates that he would be pleased to address a joint assembly of the Legislature at the pleasure of the two Houses; therefore,

be it

Resolved by the House of Delegates, the Senate concurring therein:

That His Excellency, the Governor, is hereby invited to address a joint assembly of the Legislature at 2:20 p.m., Wednesday, January 26, 1949, and that the two Houses of the Legislature meet in joint assembly at that hour.

HOUSE CONCURRENT RESOLUTION NO. 12
(By Mr. Blankenship and Mr. Martin)
[Adopted March 7, 1949.]
Providing for the adoption of an official state bird and official state tree.
WHEREAS, No bird has been officially designated as a state bird by action of the Legislature; and

WHEREAS, Interest in birds and wildlife is so increasing in West Virginia, among school children, civic organizations, bird study groups and many other citizens, that an official state bird should be designated; and

WHEREAS, West Virginia is one of only three states without an officially designated state bird; and

WHEREAS, No tree has been officially designated as a state tree by action of the Legislature; and

WHEREAS, The designation of a state tree would aid in the promotion of interest in conservation and forestry in West Virginia; and

WHEREAS, The school children and other interested citizens should have the privilege of helping to select an official state bird and an official state tree; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby authorizes the designation of an official state bird and an official state tree as determined by popular choice of the school pupils enrolled in the elementary and high school grades of the public and private schools of the State, the students enrolled in West Virginia University and all other colleges operated within the State, the recognized garden clubs and civic organizations, sportsmen's associations and bird study groups of the State, said vote to be taken during the month of April, one thousand nine hundred forty-nine; and be it

Further Resolved, That the State Superintendent of Free Schools be hereby notified of this action, and authorized and requested to arrange for such vote in all of the counties, provide rules and regulations for same, and compile the returns as a state summary report; and be it

Further Resolved, That the State Superintendent of Free Schools, the respective clerks of the House and the Senate, and
the respective chairmen of the Committees on Education of both Houses, are hereby designated as a committee to review and tabulate the results of this election and by virtue of this resolution to declare the bird receiving the most votes to be the official state bird of West Virginia, and the tree receiving the most votes to be the official state tree of West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Speaker, Mr. Flannery)

[Adopted March 4, 1949.]

Relating to adding a course in coal mining to the public school curriculum.

WHEREAS, The largest industry of the State of West Virginia is the production of bituminous coal which employs more than one hundred thousand workers and produces annually more than one hundred sixty million tons of coal, which huge production is made possible because a majority of the mines are mechanized and the employees have become by experience skilled workers; and

WHEREAS, The hazards to the employees of this industry are great, and altogether too many employees are annually killed, crippled, disabled or otherwise incapacitated; and

WHEREAS, The essentials of agriculture, home economics, sanitation, dairying and like subjects are now taught in the public schools and institutions of higher learning of this State; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That because of the hazards to employees of the coal mining industry and the large number of casualties suffered by such employees, it is the sense of the Legislature that the youth of the State, from whose ranks must come tomorrow's coal miners, should be taught the rudiments of coal mining in the public schools of this State; and that the State Board of Education be hereby requested to take such appropriate action as may be
necessary to insure that a course in coal mining be added to the public school curriculum.

HOUSE CONCURRENT RESOLUTION NO. 22

(By Mr. Doringer)

[Adopted March 10, 1949.]

Memorializing the Congress in opposition to the appropriation of federal funds to plan and initiate construction of a coal-burning steam power plant for the Tennessee Valley Authority.

WHEREAS, The Congress has had under consideration the appropriation of $2,500,000 to provide plans and initiate construction of a coal-burning steam unit for the TVA which would eventually cost $85,000,000; and

WHEREAS, Bituminous coal production is West Virginia's greatest basic industry, providing a livelihood for 125,000 West Virginia coal miners who are dependent on continued high production of bituminous coal; and

WHEREAS, The proposed coal-burning steam power plant for TVA would directly or indirectly displace a large tonnage of West Virginia coal; and

WHEREAS, Many industries now domiciled in the northeastern portion of the United States have been seeking locations for new plants in areas where coal and other sources of power are more abundant, are locating in the TVA area rather than in West Virginia because of the advantages provided at TVA at the expense of taxpayers in West Virginia and other states outside that area; and

WHEREAS, Many West Virginia communities, now wholly dependent for support upon the bituminous coal, are seeking new industries to provide for greater employment now as well as to utilize either for fuel or processing a greater volume of West Virginia's coal within the borders of the State; and

WHEREAS, The members of the West Virginia Legislature, particularly those from coal producing and new-industry-seek-
ing areas of West Virginia, are increasingly concerned about the displacement of West Virginia's coal miners, through competition from the TVA; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we urge the Congress of the United States to refuse to approve the $2,500,000 appropriation for a coal-burning steam power plant for the TVA, and that we earnestly request West Virginia's members of the Senate and the House of Representatives to use all honorable means to oppose the pending appropriation, and that a copy of this resolution be forwarded to all members of the West Virginia delegation in the Congress, and to the chairmen of the appropriate committees thereof.

HOUSE CONCURRENT RESOLUTION NO. 24
(By Mr. Johnston)
[Adopted March 12, 1949.]
Condemning persecution of pastors and clergymen in Hungary and Bulgaria.

WHEREAS, It has come to our attention that fifteen clergymen of the Methodist, Baptist, Congregational, and Pentacostal churches in Bulgaria have been arrested and tried by the Soviet-controlled Communist dictators of that country upon various shabby pretexts, but for the actual and evident purpose of destroying religious freedom in and completing the enslavement of the oppressed peoples of that unhappy country; and

WHEREAS, It has also come to our attention that the Catholic cardinal of Hungary, Joseph Cardinal Mindszenty, has been arrested, tried, and condemned by the Soviet-controlled Communist dictatorship of that country upon various equally shabby pretexts, also for the actual and evident purpose of destroying religious freedom in and completing the enslavement of the oppressed peoples of that unhappy land; and

WHEREAS, A bishop of the Lutheran Church, the Reverend Lajos Ordass, has for many months languished in prison in Hungary, having been arrested on base and trumped-up charges by the Communist authorities of Hungary for the
equally evident purpose of destroying religious freedom and completing the enslavement of the unhappy Hungarian people; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we, the Legislature of the sovereign State of West Virginia, do most solemnly condemn the persecution of the pastors and clergymen of the Methodist, Baptist, Congregational, Pentecostal, Catholic and Lutheran churches in Hungary and Bulgaria.

That we furthermore do most solemnly condemn the trials of the clergymen aforesaid as being trials by kangaroo courts, shameful, and obscene mockeries of justice, and in effect nothing other than legalized lynchings.

That we furthermore do most solemnly condemn the so-called “confessions” extracted by the government in these trials as having been obtained under force and duress, and as an obvious result of the use of drugs or torture, mental or physical, upon the unhappy victims.

That we furthermore do, in the name of the people of the State of West Virginia, most solemnly condemn the persecution of Protestant, Catholic and Jew carried on at present by the Soviet-controlled dictatorships of eastern Europe as being a deliberate effort to destroy the freedom of religion in those lands, and therefore as deserving of the solemn condemnation of free men everywhere.

That we furthermore order and direct that a copy of this resolution be sent to the President of the United States of America, one to the Secretary of State of the United States of America, and one to the President of the United States Senate.

HOUSE CONCURRENT RESOLUTION NO. 28
(By Mr. Schupbach and Mr. Trent)

[Adopted March 12, 1949.]

Concerning the appointment of the Honorable Louis A. Johnson as Secretary of Defense.
WHEREAS, President Truman has bestowed upon the State of
West Virginia a high and signal honor in appointing the Honorable Louis A. Johnson as Defense Secretary; and

WHEREAS, Mr. Johnson is an outstanding lawyer and businessman of the State, a veteran of World War I, a former National Commander of the American Legion, a former member of the West Virginia House of Delegates, having served as Chairman of the House Committee on the Judiciary and majority floor leader in the 1917 Legislature; and

WHEREAS, He became Civilian Aide to the Secretary of War for the State of West Virginia in 1933, has served as member of the Federal Advisory Council of the U. S. Employment Service under the Department of Labor, served as Assistant Secretary of War from 1937 to 1940, and was the personal representative of the late President Franklin D. Roosevelt in India in 1942; and

WHEREAS, Mr. Johnson contributed much to the defense and preparedness of this nation for World War II as well as to plans for the conduct of this war which ended in victory for the United States and her allies; and

WHEREAS, This is the fifth time a West Virginian has been appointed a member of a President's Cabinet, the others being the late Nathan Goff, who served as Secretary of Navy in the administration of President Rutherford B. Hayes, the late Stephen B. Elkins, who served as Secretary of War in the Cabinet of President Benjamin Harrison, the late William Lynn Wilson, who served as Postmaster General in the Cabinet of President Cleveland, and the late Howard M. Gore, who served as Secretary of Agriculture under President Coolidge; and

WHEREAS, Mr. Johnson by training and experience is eminently qualified to ably discharge the important duties and responsibilities of Secretary of Defense; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the West Virginia Legislature hereby express their appreciation and thanks to President Truman for thus honoring the State and one of her distinguished citizens,
and also congratulates Mr. Johnson on receiving this high and merited honor, and wishes for him a most successful, pleasant and constructive service in this highly important and powerful position; and, be it

Further Resolved, That copies of this resolution be transmitted to President Truman and Mr. Johnson.

HOUSE CONCURRENT RESOLUTION NO. 33
(By Mr. Mills and Mr. Schupbach)
[Adopted March 12, 1949]
Concerning the appointment of the Honorable John Kee to the chairmanship of the Foreign Affairs Committee of the House of Representatives:

WHEREAS, West Virginia has been honored by the appointment of the Honorable John Kee, a Member of Congress from the Fifth West Virginia Congressional District, to the Chairmanship of the important Foreign Affairs Committee of the House of Representatives as the successor of the late Sol Bloom; and

WHEREAS, Mr. Kee is now serving his ninth consecutive term as a member of the Congress and has ably and capably represented his district and country during these crucial years in the history of the nation; and

WHEREAS, Mr. Kee prior to his service in the Congress was a leading member of the bar in West Virginia, active in all civic and public affairs, a leader in his political party, and prior to his election to the Congress served as a member of the West Virginia State Senate; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the West Virginia Legislature have learned of this appointment with great pleasure, commend the nation on securing the services of this distinguished citizen of West Virginia in this highly important position, and congrat-
ulate Representative Kee on this signal honor which he has by long and faithful service won for himself and for his State.

HOUSE CONCURRENT RESOLUTION NO. 34
(By Mr. File)
[Adopted March 12, 1949.]
Relating to printing of index to the Special Acts of Legislature.

WHEREAS, As authorized by H. C. R. No. 22 of the 1947 Legislature, the Attorney General has compiled an index to the Special Acts of the West Virginia Legislature; and

WHEREAS, The manuscript of said index has been delivered to the Clerk of the House of Delegates for printing; and

WHEREAS, The Acts of the 1949 session of the Legislature should be included in said index; therefore, be it

Resolved by the House of Delegates the Senate concurring therein:

That before printing of said index, the Clerk of the House of Delegates shall include therein such additions and changes as are necessary to include Acts of the 1949 Legislature; and, be it

Further resolved, That the Clerk of the House of Delegates is hereby authorized to pay such expenses as may be incurred in the editing, revising, printing and proof reading of said index, the same to be paid from the contingent fund of the House of Delegates, and to have said index printed as authorized by H. C. R. No. 22, 1947 Legislature. The cost of printing said index shall be paid from the Legislative printing fund.

HOUSE JOINT RESOLUTION NO. 3
(By Mr. Ballard, of Mercer)
[Adopted February 28, 1949.]
Proposing an amendment to the Constitution of the State, amending section thirty-three of article six thereof.
Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty, which proposed amendment is as follows:

That section thirty-three, article six of the Constitution be amended to read as follows:

Section 33. The members of the Legislature shall each receive for their services, the sum of one thousand dollars per annum, and ten cents for each mile travelled in going to and returning from the seat of government by the most direct route, and in addition thereto, shall receive ten dollars per day for each day's attendance upon any extended or extraordinary session of the Legislature. The Speaker of the House of Delegates and the President of the Senate shall each receive an additional compensation of five dollars per day for each day they shall act as presiding officer. No other allowance or emolument than that by this section provided shall directly or indirectly be made or paid to the members of either house for postage, stationery, newspapers, or any other purpose whatever.

HOUSE JOINT RESOLUTION NO. 6
(By Mr. Speaker, Mr. Flannery)

[Adopted March 12, 1949.]

Proposing an amendment to the Constitution of the State of West Virginia, to be known as the "Veterans' Bonus Amendment," relating to the issuance and sale of state bonds for the payment of a bonus for veterans.

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
fifty, which proposed amendment is as follows:

That the Constitution of the State of West Virginia be, and
the same is hereby, amended by adding thereto the following:

Veterans' Bonus Amendment

The Legislature shall by law provide for the issuance and
sale of state bonds, not to exceed in the aggregate ninety mil­
lion dollars, which shall be in addition to all other state bonds
heretofore authorized. The proceeds of such additional bonds,
or so many thereof as may be necessary for the purpose, shall
be used and appropriated solely for the purpose of paying a
cash bonus to veterans of World War I and World War II.
Such bonus shall be paid to all persons who rendered active
service in the armed forces of the United States in World War
I between the sixth day of April, one thousand nine hundred
seventeen, and the eleventh day of November, one thousand
nine hundred eighteen, both dates inclusive, or in World War
II between the seventh day of December, one thousand nine
hundred forty-one, and the second day of September, one thou-
sand nine hundred forty-five, both dates inclusive, or in both
such wars, who were bona fide residents of the State of West
Virginia at the time of their entry into such service and for
a period of at least six months prior thereto, who were not
dishonorably discharged from such forces, and who within
the periods specified above actively served in such armed
forces for a period of at least ninety days. Such a bonus shall
also be paid to any disabled veteran, otherwise qualified, who
was discharged within ninety days after entering the services
because of a service connected disability. The amount of such
bonus shall be calculated on the basis of ten dollars for each
month, or major fraction thereof, served within the territorial
limits of the forty-eight states and the District of Columbia,
and fifteen dollars for each month, or major fraction thereof,
served outside such limits, but such amount shall in no case
exceed three hundred dollars for those who served only within
the territorial limits specified above, and four hundred dollars
for those who served outside such limits. The bonus to which
any deceased veteran would be entitled, if living, shall be paid only to the following surviving relatives of such veteran, if such relatives are residents of this State when application for payment is made: Any unremarried widow, or if none, any child or children under the age of sixteen, or if none, any dependent parent or parents.

Whenever the Legislature shall provide for the issuance of any bonds under the authority of the amendment, it shall at the same time provide for the levy and collection of an additional cigarette tax, or an additional tax on nonintoxicating beer, or an additional charge on the sale of each bottle of wine and liquor, or an additional general consumers sales tax, or a graduated income tax, or any two or more thereof, in such amount as may be required to pay annually the interest on such bonds and the principal thereof within and not exceeding thirty years.

HOUSE RESOLUTION NO 1
(By Mrs. Walker)
[Adopted January 12, 1949.]
Election of Clerk, Sergeant-at-Arms and Doorkeeper of the House of Delegates.

Resolved by the House of Delegates:
That J. R. Aliff, from the County of Fayette, be, and he is hereby, elected Clerk of the House of Delegates.

That C. Fred Combs, from the County of McDowell, be, and he is hereby, elected Sergeant-at-Arms of the House of Delegates.

That Royal C. Davis, from the County of Harrison, be, and he is hereby, elected Doorkeeper of the House of Delegates.

HOUSE RESOLUTION NO. 2
(By Mr. Woodyard)
[Adopted January 12, 1949.]
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-seven, are hereby adopted and shall govern the proceedings of this House.

HOUSE RESOLUTION NO. 3
(By Mr. Davis)
[Adopted January 12, 1949.]

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 W. E. Flannery, of the County of Logan, as Speaker, and J. R. Aliff, of the County of Fayette, as Clerk, and is ready to proceed with the business of the session.

HOUSE RESOLUTION NO. 4
(By Mr. Casey)
[Adopted January 12, 1949.]

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. 5
(By Mr. Loop)
[Adopted January 12, 1949.]

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 Senate and House of Delegates, the joint rules of the Senate and House of Delegates and such 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. 6
(By Mr. Cline)
[Adopted January 12, 1949.]

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. 7
(By Mr. White, of Cabell)
[Adopted January 18, 1949.]
Authorizing payment for services rendered prior to the session and for supplies purchased prior to the opening of the session.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates, with the approval of the Speaker, is hereby authorized to draw his requisitions in payment of bills for supplies purchased prior to the opening of the session and for services rendered the House of Delegates preparatory to the opening of the session, said requisitions to be drawn upon the contingent fund of the House of Delegates.

HOUSE RESOLUTION NO. 8
(By Mr. Roach)
[Adopted January 18, 1949.]
Providing for a mailing list for House Journals.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to have mailed from the House document room, copies of the daily Journal of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates, such lists not to exceed ten names from each Delegate; and the expenses of such mailing, including postage, shall be paid by the Auditor out of the contingent fund of the House of Delegates, in advance of the appropriation therefor, upon proper requisitions of the Clerk. All such mail shall bear the stamp of the Clerk of the House of Delegates, and the Clerk shall designate such persons as are to deliver such mail to the Central Mailing Office and notify the postmaster of such designation, and said office shall not accept such mail from any person or persons other than those so designated by the Clerk; and, be it
Further Resolved, That the Clerk is hereby authorized to mail copies of journals, bills and other documents printed by the House to persons requesting the same.

HOUSE RESOLUTION NO. 9
(Originating in the Committee on Rules)
[Adopted January 24, 1949.]

Authorizing the appointment of attaches for the House of Delegates for the one thousand nine hundred forty-nine 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 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 ten dollars per day each;
   Two roll-call clerks at ten dollars per day each;
   Three proofreaders and three copyholders at eleven dollars per day each;
   One payroll and supply clerk at fifteen dollars per day;
   One bill editor at sixteen dollars per day;
   One clerk to the Committee on Enrolled Bills at eleven dollars per day;
   Two file clerks at ten dollars per day each;
   One receptionist at ten dollars per day;
   One Journal clerk at eighteen dollars per day;
   One messenger for the Clerk’s office at nine dollars per day;

(2) For other offices and positions the following:
   One clerk, one assistant clerk and one stenographer to the Committee on Finance at sixteen, thirteen and twelve dollars per day each, respectively;
   One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at sixteen, thirteen and twelve dollars per day each, respectively;
One clerk to the Committee on Education at thirteen dollars per day;
Twelve committee clerks, to be assigned by the Speaker, at eleven dollars per day each;
One secretary to the minority and one clerk to the minority at fifteen dollars per day each;
Fourteen stenographers and clerks from the minority, to be assigned by the Speaker, at eleven dollars per day each;
One supervisor of stenographers at fifteen dollars per day;
Twelve stenographers for the stenographic room at eleven dollars per day each;
Four typists at ten dollars per day each;
One supervisor of the document room at twelve dollars per day;
One supervisor of the mailing room at twelve dollars per day;
Nine document room clerks at ten dollars per day each;
Nine mailing room clerks at ten dollars per day each;
Three pages at eight dollars per day each;
One messenger to the Speaker at ten dollars per day;
Three assistants to the Sergeant-at-Arms at eleven dollars per day each;
One clerk to the Sergeant-at-Arms at eleven dollars per day;
Six assistant doorkeepers at nine dollars per day each;
One mimeograph supervisor at eleven dollars per day;
One assistant mimeograph supervisor at eleven dollars per day;
Three mimeograph operators at ten dollars per day each;
One supervisor of offices and property at thirteen dollars per day;
One men's cloak room attendant at eight dollars per day;

Further Resolved, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk of the House, 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 attaches 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 attaché and appoint another in his or her place, and he shall require each of said attaches to perform such duties as shall be assigned him or her, and is hereby given authority to dispense with the service of any attaché 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 attachés 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. 10
(Originating in the Committee on Rules)
[Adopted January 24, 1949.]
Authorizing the payment of officers and their appointees for the House of Delegates during the one thousand nine hundred forty-nine regular session.

Resolved by the House of Delegates:
That, upon proper certification, the Clerk of the House of Delegates be, and he is hereby authorized, to honor for payment the following per diem of officers and appointees as herein set out for this session of the Legislature:
The Clerk of the House shall receive twenty-five dollars per day, but shall not receive the compensation provided in Account No. 102, chapter 27, Acts of the Legislature, regular session, one thousand nine hundred forty-seven; the Sergeant-at-Arms and Doorkeeper shall receive fourteen dollars per day each; and of the three assistant clerks provided for by section nine, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, one shall receive eighteen dollars per day and two shall receive fifteen dollars per day each; and, be it

Further Resolved, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive eighteen and fifteen dollars per day, respectively; and that the secretary and stenographer to the Clerk, as provided for by the rules, shall receive eighteen and fifteen dollars per day, respectively; and, be it

Further Resolved, That the chaplain appointed by the Speaker under the rules shall receive seven dollars per day; and, be it

Further Resolved, That all appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his requisitions upon the Auditor in favor of the persons named 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 and appointees for consecutive days from the date of their employment, at the per diem herein set out, until such time as their services shall cease.

HOUSE RESOLUTION NO. 11
(Originating in the Committee on Rules)
[Adopted January 24, 1949]

Authorizing the appointment of janitors.

Resolved by the House of Delegates:

That, in conformity with the provisions of chapter thirty-
three, Acts of the Legislature, regular session, one thousand
eight hundred forty-seven, the Speaker of the House of Dele-
gates is hereby authorized to appoint eight janitors for the one
thousand nine hundred forty-nine session of the Legislature at
a per diem of nine dollars. Said per diem 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. 12
(By Mr. Doringer)
[Adopted January 31, 1949.]
Authorizing payment of expenses of members of standing com-
mittees, and subcommittees thereof, incurred in visiting
state institutions.

WHEREAS, Various members of standing committees and sub-
committees 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; there-
fore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby author-
ized 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. 14
(Originating in the Committee on Rules)
[Adopted February 17, 1949.]
Authorizing the Committee on Rules to arrange a special cal-
endar.
Resolved by the House of Delegates:

That beginning February 21, 1949, and for the remainder of this regular session, the Committee on Rules is authorized to arrange a special calendar effective on that date, as provided for by House Rule No. 70. After the ninth order of business shall have been passed the Special Calendar shall be called, and until this 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 two-thirds vote of the members present and voting: 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 affects the interests of the people as a whole.

HOUSE RESOLUTION NO. 15
(By Mr. Rairden)
[Adopted February 21, 1949.]
Requesting the Board of Public Works to transfer certain proposed appropriations in the Budget Bill.

Resolved by the House of Delegates:

That the Board of Public Works is hereby requested to transfer an amount of four million five hundred thousand dollars ($4,500,000), as designated on page ninety-nine of the Budget Bill, under Section Five, Item Three of Capital Expenditures from Surplus Revenue, to Item Fifty-five of the same section, which amount is to be added to the amount therein designated for state aid to counties for a school building program.
Memorizing the Congress of the United States to repeal the Taft-Hartley Law.

WHEREAS, The Labor Management Relations Act, 1947, Public Law 101, 80th Congress, Chapter 120, better known as the "Taft-Hartley Law"; and

WHEREAS, This Taft-Hartley Law brought back into force the injunction law, which had been outlawed through the efforts of the late Senator Norris, and was known as the Norris Anti-Injunction Act; and

WHEREAS, Section eight of our Bill of Rights has been violated, not once, but twice, and we quote this section 8, "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted"; and

WHEREAS, This Taft-Hartley Law compelled involuntary servitude under government authority; therefore, be it

Resolved by the House of Delegates:

That we recommend to the Congress of the United States the outright repeal of the infamous Taft-Hartley Law and that we respectfully recommend that the members of Congress from the State of West Virginia support the provisions of said resolution; and, be it.

Further Resolved, That a copy of this resolution be forwarded to the Clerk of the Senate and the Clerk of the House of Representatives of the Congress of the United States.

Complimenting those contributing to the signal success of 1949 Speaker’s banquet.
WHEREAS, The 1949 House of Delegates, in honoring the Speaker at the traditional banquet last night, March 2, also did itself a service by measuring the bond of good fellowship inherent in its membership; and

WHEREAS, The integrity of individuals and the respect for one another was clearly defined in this first general assemblage on a social basis; and

WHEREAS, The humility and sincerity of our own presiding officer, Speaker Flannery; the genuine friendliness and common understanding with all citizenry alike, despite his high office, upon the part of our Governor, His Excellency Okey L. Patteson; the happy relationship between the two legislative bodies demonstrated by the presence and remarks of the honorable leader of the Senate, President Broughton Johnston; all forcefully emphasizing the high calibre of statesmanship of this administration, so clearly united in a common goal of welfare for all the people of West Virginia; and

WHEREAS, The latent talent of its own membership, demonstrated by Delegates Doringer, Byrd, Roach, Ellis, Cline, Richards, Manchin, Phillips, and Doorkeeper Royal C. Davis, not only provided excellent entertainment, but also promoted better understanding; and

WHEREAS, The success of this venture was in no small measure the result of the earnest endeavors of the Speaker's Banquet Committee, headed by the "flower of Fayette", Delegate Nell W. Walker; therefore, be it

Resolved by the House of Delegates:

That a vote of thanks be spread upon the House of Delegates' records from the membership as a whole to the Speaker's Banquet Committee, consisting of Mrs. Walker, as chairman; Delegate Frank Knight, master of ceremonies and in charge of banquet arrangements; Delegate Fred L. Doringer, in charge of floor entertainment; Delegate J. C. Powell, the genial and respected minority member; Delegate Herbert Schupbach, in charge of preliminary hospitality; and Mrs. Frances Evans, the Speaker’s Secretary.
HOUSE RESOLUTION NO. 18
(By Mr. Knight)
[Adopted March 3, 1949.]

Establishing the Third House.

WHEREAS, It has been the custom of the House of Delegates for many years past to conduct near the close of the session a Third House; and

WHEREAS, Such a Third House is usually placed in the capable hands of the press and radio; and

WHEREAS, It’s getting awful late; and

WHEREAS, We should do something about this, and soon; therefore, be it

Resolved by the House of Delegates:

That the hour of eight P. M. of Tuesday next, March 8, 1949, is set as the time for the Third House to meet, and that furthermore Charles R. (Snake-pit) Armentrout, of the Charleston Gazette, be established as the Speaker of same, and that furthermore the announcement of same be spread far and wide throughout our grand and glorious State so that many may come and be insulted.

HOUSE RESOLUTION NO. 19
(By Mr. Dawson and Mr. Underwood)
[Adopted March 7, 1949.]

Requesting the Board of Public Works to submit a supplemental budget appropriating money requested by the Department of Public Assistance.

WHEREAS, The Department of Public Assistance requested $13,126,973 for the fiscal year 1949-1950 and $13,502,730 for the fiscal year 1950-1951, from the Board of Public Works, and the Board of Public Works approved to the Department of Public Assistance $9,136,057 for the fiscal year 1949-1950, and $9,146,102 for the fiscal year 1950-1951, and 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 misfortunes of life have been compelled to receive assistance from the State, and the State of West Virginia owes a legal and moral duty to provide 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 is hereby requested to submit a supplemental budget, appropriating to the Department of Public Assistance the sum of $13,126,973 for the fiscal year 1949-1950, and the sum of $13,502,730 for the fiscal year 1950-1951.

HOUSE RESOLUTION NO. 20
(By Mr. Rairden)
[Adopted March 7, 1949]

Extending sympathy to the Honorable Rush D. Holt, Delegate from the county of Lewis, and Mrs. Holt, during the critical illness of their daughter, Helen Jane.

WHEREAS, It is with sincere and heartfelt sorrow that the members of the House of Delegates have learned of the serious illness of the daughter of the Delegate from the County of Lewis; and

WHEREAS, It is the prayer of this House that it may be God's will that she recover; therefore, be it

Resolved by the House of Delegates:

That the members of this body, fully aware of the esteem in which the gentleman from Lewis is held by his multitude of friends throughout the State, do hereby offer their prayers and heartfelt sympathy to Delegate and Mrs. Holt; and be it

Further Resolved, That a copy of this resolution be forwarded to Delegate and Mrs. Holt at Johns Hopkins Hospital, Baltimore, Maryland, where they are at the bedside of their daughter.
HOUSE RESOLUTION NO. 21

(Originating in the Committee on Rules)

[Adopted March 12, 1949.]

Authorizing the printing and distribution of the Acts of this session of the Legislature, providing for the printing of corrected Journals, 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 in paper binding 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.

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 copies of said acts 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 available. The Clerk of the House of Delegates shall also furnish one copy of 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 gen-
eral 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 the indexing and proofreading of the corrected House Journals, and to include therein a simple index of all bills introduced in the 1949 session of the Legislature, and printing thereof, the per diem of the Clerk, two assistant clerks, and the secretary to the clerk is extended for one hundred fifty days, and the time of one assistant clerk is extended for one hundred twenty days, all at the same per diem as paid during this regular session of the Legislature.

For the above cited purposes, the Speaker of the House of Delegates is hereby authorized to name the following employees for the number of days herein set forth at the per diems paid for such work during this regular session of the Legislature:

A journal clerk for one hundred fifty days; a proofreader for sixty days; a stenographer on journal work for ten days; a supervisor of document room for seven days; a supervisor of mailing room for seven days; a secretary to the minority for seven days; a clerk to the minority for seven days; a supervisor of mimeograph room and an assistant mimeograph supervisor for seven days each; a document room clerk for seven days; a payroll and supply clerk for seven days; a supervisor of stenographers for seven days; a clerk to the Committee on the Judiciary, a clerk to the Committee on Finance, a clerk to the Committee on Education, and a clerk to the Committee on Enrolled Bills, each for seven days; one supervisor of offices and property for ten days; eight janitors for five days each, and one cloakroom attendant for eight days; and, be it

Further Resolved, That for the purpose of certification, correspondence, filing and other duties incident to the Speaker's office, the time of the Secretary and the Stenographer to the
Speaker is extended for thirty days each at the same per diem paid during this regular session of the Legislature; 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 seven days each, at the same per diem paid during this regular session of the Legislature.

The Clerk shall draw his requisitions upon the Auditor in favor of the person receiving 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 persons appointed under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place to fill any vacancy that may occur.

The Clerk is authorized to have printed not more than six hundred copies of the corrected House Journals. Of this number, one copy each shall, be mailed to each member of the Legislature, and after retaining a sufficient number of copies to supply the offices in the House of Delegates, the remainder shall be turned over to the supervisor of public printing.

To pay postage or expressage on acts and journals, 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. 23
(By Mrs. Walker)
[Adopted March 12, 1949.]
Requesting membership to confer records used to expedite work.

WHEREAS, The Pierce and Audograph recorders used in the
House chamber at the opening session of this Legislature and in the Speaker's office during the sixty days now ending were not only an innovation in the proceedings of this body, but served greatly to expedite the work; and

WHEREAS, The bulk of the test of speeding up matters by such mechanical usage was made by the private stenographic force serving the Speaker; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates purchase the Pierce and Audograph recorders, and present them to the Speaker, the Hon. W. E. Flannery, for permanent use in his private law office and for interim legislative work during the next biennium.

HOUSE RESOLUTION NO. 24
(By Mr. Roach)
[Adopted March 12, 1949.]

Expressing sympathy to Delegate Young on the death of his brother.

WHEREAS, The members of this body have learned of the death of a brother of the Delegate from the County of Brooke; therefore, be it

Resolved by the House of Delegates:

That the heartfelt sympathy of the members of the House of Delegates is hereby extended to Delegate Young.

HOUSE RESOLUTION NO. 25
(By Mr. File)
[Adopted March 12, 1949.]

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. 26
(By Mr. Trent)
[Adopted March 12, 1949.]
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. Bowling)
[Adopted January 12, 1949.]
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-seven are hereby adopted and shall govern the proceedings of this session.

SENATE CONCURRENT RESOLUTION NO. 2
(By Mr. Amos)
[Adopted January 18, 1949.]
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. Bean)
[Adopted January 25, 1949.]

Deploring the death of Honorable Milton Stanley Hodges.

WHEREAS, On November 4, 1948, death removed from among us, to our profound sorrow and great loss, an able and devoted public servant in the person of the Honorable Milton Stanley Hodges, of Franklin, Pendleton County; and

WHEREAS, The deceased had served as Parliamentarian of the State Senate since 1933, and was recognized as a leading authority on parliamentary procedure, proving to be a most able officer, efficient, conscientious, tactful and courteous, and winning the admiration of all members of the Legislature, regardless of party affiliation; and

WHEREAS, He had become one of the State's most familiar and beloved political figures because of his long and distinguished record as Clerk of the House of Delegates in the 1921, 1925 and 1927 sessions, and as Clerk of the Senate in the 1929, 1930 and 1931 sessions, during which he edited with distinction the West Virginia Blue Book; and

WHEREAS, His public life included four years as mayor of the municipality of Franklin and twenty years as city attorney, as well as draft board chairman during the first World War; and
WHEREAS, This distinguished gentleman was not only a faithful public servant but a patriotic American soldier, having served as a member of the Fourth Ohio Volunteer Infantry during the Spanish-American War; and

WHEREAS, As a lawyer the deceased was widely known and highly respected in the legal profession, and esteemed for his knowledge and ability by all governmental officials with whom he had dealings; and

WHEREAS, He was a thoughtful and generous neighbor, a devoted citizen, a true fraternalist, an active Mason, a man of quiet personal charm and unfailing loyalty to his friends, and a Republican admired and respected by members of all political groups; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the members of the forty-ninth Legislature of West Virginia, acutely aware of the tragic and profound loss suffered by the State in the passing of this distinguished West Virginian, do hereby extend their deep and heartfelt sympathy to the family and relatives of the deceased; and, be it

Further Resolved, That a copy of this resolution be transmitted to the daughter 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 Clerk of the Senate and the House of Delegates.

SENATE CONCURRENT RESOLUTION NO. 4
(By Mr. Amos)
[Adopted February 8, 1949.]
Raising a joint Legislative committee for the purpose of acquiring for the State of West Virginia Newton D. Baker Hospital, at Martinsburg, West Virginia.

WHEREAS, The United States government, during World War II, constructed at or near Martinsburg, West Virginia, a 3,500
SENATE CONCURRENT RESOLUTIONS

bed convalescent hospital, known as Newton D. Baker Hospital; and

WHEREAS, At the conclusion of World War II the operation of this institution was virtually suspended and the property contemplated as surplus for disposal by the War Assets Administration; and

WHEREAS, The United States government has established the precedent, in several instances, of ceding such properties to the state or other subdivisions of state government in which the same are located, for a nominal consideration of one dollar; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of the two houses, consisting of the President of the Senate and four other members of the Senate to be chosen by him, and the Speaker of the House and four other members of the House to be chosen by him, be raised for the purpose of conferring with the proper officials of the United States government in an effort to obtain for the State of West Virginia, for the aforesaid consideration, the Newton D. Baker Hospital property at Martinsburg, for such use as the Legislature shall determine; and, be it

Further Resolved, That the Governor of West Virginia be invited to serve as a member and ex officio chairman of said joint legislative committee; and, be it

Further Resolved, That said committee be authorized and instructed to seek the counsel and assistance of the West Virginia members of the United States Senate and of the House of Representatives; the National Committeemen of the Democratic and Republican parties; and of all other persons who may be of effective aid, in bringing about the acquisition of this property by the State; and, be it

Further Resolved, That the committee is authorized to fix the amount to be paid the members thereof as an allowance for their expenses, not to exceed fifteen dollars per day per member, and for their mileage; and, be it
Further Resolved, That such committee shall make a report to the Legislature before the conclusion of the one thousand nine hundred forty-nine regular session thereof; but, if necessary in order to successfully complete the duties assigned to it, such committee shall be continued and shall continue its efforts beyond the current session, as an interim committee of the forty-ninth Legislature.

The Clerk of the Senate and the Clerk of the House of Delegates, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the House of Delegates and the contingent fund of the Senate for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee or by one authorized to do so by the committee.

SENATE CONCURRENT RESOLUTION NO. 6
(By Mr. Beeler and Mr. Bean)
[Adopted February 21, 1949.]
Requesting the Board of Public Works to submit an amendment and supplement to the Budget Bill, making an appropriation to the West Virginia Foundation for Crippled Children to be used for the hospital at Berkeley Springs, known as the "Pines."

WHEREAS, The 1945 Legislature appropriated the sum of $5,000.00 to the West Virginia Foundation for Crippled Children for certain improvements at the hospital at Berkeley Springs, known as the "Pines"; and

WHEREAS, The sum of $1,838.73 of said appropriation was expended for necessary work on the hospital, and on June seventeen, one thousand nine hundred forty-seven, the Board of Control entered into a contract with C. B. Michael for certain other repairs and improvements at this institution in an amount equal to the remainder of the original appropriation; and
WHEREAS, The contractor started this work and found he could not obtain necessary materials, resulting in the contracted work not being completed; and

WHEREAS, The said appropriation expired and was returned to general revenue before the work was completed or the contractor paid for the work he had already done; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Board of Public Works be, and is hereby respectfully requested to submit to the Legislature an amendment and supplement to the 1949 Budget Bill in the amount of $3,161.27, said amount to be used for paying for such work as was done under the former contract, and for the completion of the repairs and improvements for which the appropriation was made in 1945.

SENATE CONCURRENT RESOLUTION NO. 9
(Originating in the Committee on Finance)

[Adopted March 2, 1949.]

Creating an interim committee of the Legislature to make a study and survey concerning the advisability of the establishment of a four-year school of medicine and dentistry of West Virginia University, the proper location of such a school, and the cost and adequate financing thereof.

WHEREAS, It is generally recognized that a more adequate program for the training of doctors, dentists and nurses is necessary in order to provide essential public and private health services for the people of West Virginia; and

WHEREAS, It is agreed that West Virginia University is the state educational institution best equipped and qualified to administer such a program; and

WHEREAS, There are now before the Legislature proposals for the establishment in Charleston of a four-year school of medicine and dentistry of West Virginia University and of a state hospital in conjunction therewith; and
WHEREAS, In connection with such proposals serious ques­
tions have been raised concerning the most desirable location
of the school and hospital and concerning the ability of the
State at the present time to make adequate financial provision
for their establishment and maintenance without impairing
other essential services now rendered by it in the fields of
education, public health and general welfare; therefore, be it

Resolved by the Senate, the House of Delegates concurring
therein:

That an interim committee be created to make a study and
survey concerning the advisability of the establishment of
a four-year school of medicine and dentistry of West Virginia
University and the proper location of such a school when es­
tablished, taking into consideration the general public health
program of the State, and the furnishing of the best possible
training for doctors, dentists and nurses.

That prior to the convening of the next regular session of
the Legislature, the committee make and issue a report to the
Governor and to the Legislature concerning its study, together
with such recommendations and proposed legislation as may
in its opinion best serve the best interests of all the people
of the State.

That the membership of the committee be composed of the
President of the Senate, as co-chairman, and four members
of the Senate, to be appointed by him; and the Speaker of the
House of Delegates, as co-chairman, and four members of the
House of Delegates, to be appointed by him.

That in connection with such study, the Governor be au-
thorized to appoint an advisory committee of not more than
ten representative citizens of the State, including as ex officio
members the president of the University, the president of the
West Virginia State Medical Association, the president of the
West Virginia State Dental Society and the president of the
West Virginia State Nurses Association, to consult and advise
with the interim committee concerning the best solution of
the problem.
That the committee be authorized to meet in Charleston, or elsewhere, as it may determine.

That in order to make possible the procurement of the necessary information to carry out the intent and spirit of this resolution, the committee be empowered to call upon any of the departments of the state government, to summon witnesses, and to take testimony and to cause the production of such papers, documents, records, and the like as the committee may deem pertinent.

That the committee be empowered to employ such advisory, clerical and stenographic assistants as may be necessary in the proper execution of its duties.

That the committee be authorized to fix the amount to be paid the members of the interim and advisory committees as an allowance for their expenses, not to exceed fifteen dollars a day per member, and for their mileage, and to fix the amount to be paid to such assistants as it may employ for their compensation and expenses.

That the expenses incurred be paid from the contingent funds of the Senate and the House of Delegates in as nearly equal proportions as may be practicable.

SENATE CONCURRENT RESOLUTION NO. 12
(By Mr. Eddy)
[Adopted March 9, 1949.]
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 twelve and thirty-six, 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."

SENATE CONCURRENT RESOLUTION NO. 13
(By Mr. Love)
[Adopted March 11, 1949.] 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 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.”

SENATE CONCURRENT RESOLUTION NO. 14
(By Mr. Love)
[Adopted March 11, 1949.] 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 providing for the submission to the voters of the state of an amendment to section eight of article ten of the Constitution of the State.”
SENATE CONCURRENT RESOLUTION NO. 15
(By Mr. Bean)
[Adopted March 12, 1949.]

Authorizing the payment of expenses for services and supplies after the close of this session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this regular session of the Legislature in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the requisitions of the Clerk of the Senate and the Clerk of the House of Delegates, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two Houses; and, be it

Further Resolved, That all extensions of per diem authorized by Senate Resolution No. 10 and House Resolution No. 21, for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

SENATE CONCURRENT RESOLUTION NO. 16
(By Mr. Bean)
[Adopted March 12, 1949.]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, The West Virginia Legislature, in regular session, has enacted numerous laws of great moment and importance to the citizens of this State; and

WHEREAS, It is necessary that the citizenry receive accurate and comprehensive information of the acts of the Legislature; and
WHEREAS, The members of the press galleries of both houses have been in constant attendance at all sessions, preparing information on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature commends the members of the press for their untiring efforts to disseminate all proceedings of this body, their courteous and wholehearted cooperation with officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

Committee Substitute For

SENATE JOINT RESOLUTION NO. 1
(Originating in the Senate Committee on the Judiciary)
[Adopted March 12, 1949.]

Providing for the submission to the voters of the State of an amendment to section eight of article ten of the Constitution of the State.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia, shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty, which proposed amendment is as follows:

That section eight, article ten of the Constitution of West Virginia be amended so as to read as follows:

Section 8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, ex-
ceeding five per centum on the value of the taxable property therein to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax on all taxable property therein, in the ratio, as between the several classes or types of such taxable property, specified in section one of this article, separate and apart from and in addition to all other taxes for all other purposes, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years. Such tax, in an amount sufficient to pay the interest and principal on bonds issued by any school district not exceeding in the aggregate three per centum of such assessed value, may be levied outside the limits fixed by section one of this article: Provided, That no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same.

SENATE RESOLUTION NO. 1
(By Mr. Hardesty)
[Adopted January 12, 1949.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-seven, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 2
(By Mr. McKown)
[Adopted January 12, 1949.]

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 Honorable W. Broughton Johnston as President, and Mr. J. Howard Myers as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 3
(By Mr. Eddy)
[Adopted January 12, 1949.]
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. 4
(By Mr. Stemple)
[Adopted January 12, 1949.]
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. 5
(By Mr. Johnston, Mr. President)
[Adopted January 24, 1949.]

Authorizing the appointment of attaches and other employees for the Senate for the one thousand nine hundred forty-nine 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 journal clerk, at eighteen dollars per diem;
One supervisor of stenographers, at eighteen dollars per diem;
One bill editor, at eighteen dollars per diem;
One clerk to the minority, at eighteen dollars per diem;
One supervisor of printing, at eighteen dollars per diem;
One secretary to the Clerk, at eighteen dollars per diem;
One secretary to the President, at eighteen dollars per diem;
One chaplain, at seven dollars per diem;
One journal room supervisor, at twelve dollars per diem;
One assistant journal room supervisor, at eleven dollars per diem;
Two assistants to the Sergeant-at-Arms, at eleven dollars per diem;
One clerk on enrolled bills, at eleven dollars per diem;
One payroll clerk at fifteen dollars per diem;
One receptionist to the President, at ten dollars per diem;
One clerk to the Judiciary Committee, at sixteen dollars per diem;
One assistant clerk to the Judiciary Committee, at thirteen dollars per diem;
One stenographer to the Judiciary Committee, at twelve dollars per diem;
One clerk to Finance Committee, at sixteen dollars per diem;
One assistant clerk to Finance Committee, at thirteen dollars per diem;
One stenographer to Finance Committee, at twelve dollars per diem;
Three committee clerks at large, at eleven dollars per diem;
Ten journal and mailing room clerks, at ten dollars per diem;
Ten document room clerks, at ten dollars per diem;
Eight assistant doorkeepers, at ten dollars per diem;
Eight typists at ten dollars per diem;
Eight floor stenographers, at eleven dollars per diem;
Four committee clerk-stenographers, at twelve dollars per diem;
Three clerk-stenographers, at eleven dollars per diem;
Four proofreaders, at eleven dollars per diem;
One supervisor of mimeograph, at eleven dollars per diem;
Four mimeograph operators, at ten dollars per diem;
One messenger to the President, at nine dollars per diem;
One messenger to the Clerk’s office, at ten dollars per diem;
Eight janitors, at nine dollars per diem;
Two pages, at nine dollars per diem.

Further Resolved, That the Clerk of the Senate is authorized to appoint a court reporter, at twenty dollars per diem; and, be it

Further Resolved, That the Sergeant-at-Arms shall receive fourteen dollars per diem; the doorkeeper fourteen dollars per diem, and the Clerk twenty-five 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. Mitchell)
[Adopted February 2, 1949.]

Authorized 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 and stenographic service and other miscellaneous expenses in connection with these visits; therefore, be it

Resolved by the Senate:

That the Clerk of the Senate is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the Senate, in advance of the appropriation for the purpose, in favor of the members of such subcommittee, to reimburse them for money expended in the visiting and inspecting of said state institutions.

SENATE RESOLUTION NO. 8
(By Mr. Bean)
[Adopted February 16, 1949.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the Senate:

Beginning, February 21, 1949, 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. 10
(By Mr. Johnston, Mr. President)

[Adopted March 10, 1949.]

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-five 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 seven days, at sixteen dollars per diem;
One clerk to Judiciary Committee for seven days, at sixteen dollars per diem;
One stenographer to Finance Committee for five days, at thirteen dollars per diem;
One stenographer to Judiciary for five days, at thirteen dollars per diem;
One stenographer to Judiciary for five days, at twelve dollars per diem;
One clerk on Enrolled Bills for ten days, at eleven dollars per diem;
One journal room supervisor for fifteen days, at twelve dollars per diem;
One journal room clerk for thirty days, at ten dollars per diem;
One stenographer for sixty days, at eleven dollars per diem;
Two journal stenographers for thirty days, at eleven dollars per diem;
One secretary to the clerk for one hundred and eighty days at eighteen dollars per diem;
One journal clerk for one hundred and eighty days at eighteen dollars per diem;
One journal editor for one hundred and eighty days at eighteen dollars per diem;
One supervisor of journals and bills for one hundred and eighty days, at eighteen dollars per diem;
One stenographer for fifteen days at eleven dollars per diem;
One printing clerk for one hundred and eighty days at eighteen dollars per diem;
Two proofreaders for one hundred and fifty days at eleven dollars per diem;
Two copyholders for ninety days at ten dollars per diem;
One clerk to minority for ninety days at eighteen dollars per diem;
One supervisor of supplies for thirty days at fourteen dollars per diem;
One secretary to the President for thirty days at eighteen dollars per diem;
One supervisor of janitors for sixty days, at ten dollars per diem;
Three assistant janitors for thirty days at nine dollars per diem, each.

SENATE RESOLUTION NO. 11
(By Mr. Sinsel)
[Adopted March 10, 1949.]
Concerning the absence of the Honorable E. Bartow Jones.

Resolved by the Senate:

That the Senate, having been informed of the inability of the Honorable E. Bartow Jones, a member of this body from the Fourth Senatorial District, to attend to the duties of his office due to an injury sustained by him, extends to him its
deepest regret and sincerest sympathy and hopes that his recovery may be speedy and complete; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the Senator from Mason.

SENATE RESOLUTION NO. 12
(By Mr. Bean)
[Adopted March 12, 1949.]
Raising a committee to notify the House of Delegates that the Senate is ready to adjourn sine die.

Resolved by the Senate:
That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn sine die.

SENATE RESOLUTIONS NO. 13
(By Mr. Bean)
[Adopted March 12, 1949.]
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.
DISPOSITION OF BILLS ENACTED

The following table shows the disposition of House and Senate Bills passed at the regular session of the 1949 Legislature. The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

### HOUSE BILLS

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