

ACTS
OF THE
FIFTIETH
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION
1951



FOREWORD

Included in this volume are the Acts of the 1951 Regular Session of the Fiftieth Legislature, and the Resolutions adopted by the Legislature and the two Houses thereof during this session.

This session convened on January 10 and adjourned sine die March 10, 1951. There was a total of 803 bills introduced—488 House Bills and 315 Senate Bills. The Legislature passed 102 House Bills and 117 Senate Bills.

Of the 219 enactments of the session, the Governor approved 215. Three bills (H. B. No. 357 and H. B. No. 358, feeding of prisoners in counties of 30,000 or less population; and S. B. No. 210, tax on business of selling dressed poultry and turkeys on a wholesale basis) became law without the approval of the Governor. The Budget Bill does not require executive action.

During this session there were 20 House Concurrent, 11 House Joint and 28 House Resolutions offered, of which 9 House Concurrent and 25 House Resolutions were adopted. Eleven Senate Concurrent, 5 Senate Joint and 13 Senate Resolutions were offered, of which 5 Senate Concurrent and 13 Senate Resolutions were adopted. No Joint Resolutions were adopted by the Legislature.

Eighty-nine House Bills, passed by the House, failed of passage by the Senate; and 10 Senate Bills, passed by the Senate, failed of passage by the House.

This volume may be purchased from the State Department of Purchases, State Capitol, Charleston 5, W. Va.

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



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Regular Session, 1951

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STANDING COMMITTEES OF THE SENATE

AERONAUTICS

Messrs. McKinley (*Chairman*), Amos, Winters, Reed (of Preston) and Stemple.

AGRICULTURE

Messrs. Bowling (*Chairman*), Allen, Boner, Hardesty, Martin, Wylie, Jones, Stemple and Swearingen.

BANKS AND CORPORATIONS

Messrs. Jackson (of Logan) (*Chairman*), Allen, Amos, Bowling, McKinley, Traubert, Bowers, Carrigan and Reed (of Preston).

CLAIMS AND GRIEVANCES

Messrs. Love (*Chairman*), Boner, Martin, McKinley, Mitchell, Wylie, Moats, Reed (of Clay) and Swearingen.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Amos (*Chairman*), Eddy, Mitchell, Swiger, Taylor (of Mingo), Traubert, Carrigan, Hannig and Swearingen.

EDUCATION

Messrs. McKown (*Chairman*), Allen, Bowling, Byrd, Hardesty, Holden, Jackson (of Logan), Love, Martin, McKinley, Traubert, Bowers, Moats, Reed (of Preston), and Swearingen.

EXAMINE CLERK'S OFFICE

Messrs. Boner (*Chairman*), Swiger and Jones.

FEDERAL RELATIONS

Messrs. Amos (*Chairman*), Byrd, Holden, Jackson (of Lincoln), Taylor (of Fayette), Winters, Jones and Moats.

FINANCE

Messrs. Hardesty (*Chairman*), Allen, Amos, Bowling, Byrd, Holden, Jackson (of Logan), Martin, Mitchell, Swiger, Taylor (of Mingo), Winters, Wylie, Bowers, Hannig, Jones, Reed (of Preston) and Swearingen.

FORESTRY AND CONSERVATION

Messrs. Bowling (*Chairman*), Allen, Amos, Bean, Hardesty, Jackson (of Lincoln), Jackson (of Logan), McKinley, McKown, Taylor (of Fayette), Taylor (of Mingo), Traubert, Bowers, Reed (of Clay), and Swearingen.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1951

REGULAR SESSION

CHAPTER 1

(Com. Sub. for Senate Bill No. 62—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section nineteen-a, relating to a statute of limitations on collection of taxes, interest and penalties due the State of West Virginia or any subdivision thereof.

[Passed February 16, 1951; in effect ninety days from passage. Approved by Governor.]

Article 2. Limitations of Actions and Suits.

Section

19-a. Collection of taxes due the state or any subdivision thereof.

Be it enacted by the Legislature of West Virginia:

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

- Section 19-a.—*Collection of Taxes Due the State or Any Subdivision Thereof.*—Every action or process to collect any tax (other than ad valorem tax on real or personal property), interest and penalty due the state or any

exact location of a proposed east-west turnpike, said proposed turnpike to be the West Virginia part of the proposed federal Crozet Superhighway.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Crozet Superhighway.

Section

1. Crozet superhighway established.
2. West Virginia turnpike commission authorized to secure preliminary work on West Virginia section of proposed Crozet superhighway.

WHEREAS, A bill has been introduced before the Congress of the United States proposing the construction of the transcontinental Crozet Superhighway, to extend, in part, over improved United States highway numbered three hundred forty to Harpers Ferry, West Virginia (or, as an alternate route from Baltimore to Harpers Ferry, over United States highway numbered one to Washington, District of Columbia; thence over United States highway numbered fifty to the West Virginia Superhighway, a toll road);

Thence via Elkins and Charleston to Huntington, West Virginia, on the Ohio River, to further the national defense, to improve the facilities for transcontinental motor transportation, and to promote the public safety; and

WHEREAS, The federal bill provides,

Sec. 10. The States through which the Crozet Superhighway passes may use their present highways, if adequate; otherwise such states may build adequate freeways or superhighways, using state funds, under state toll-road laws where such laws are in existence.

Sec. 11. The commission shall not construct any section of the Crozet Superhighway unless the state through which it passes refuses to construct such section, or does not have the funds to construct such section, or does not have a suitable toll-road law under which it can construct such section.

Sec. 12. So far as practicable, each of the newly constructed sections or relocated sections of the Crozet Superhighway shall be constructed on a right-of-way approximately four hundred

and fifty feet in width, making a four-lane divided highway with ample parking space for each division of dual lane. At intervals near intersections, the right-of-way may be widened to three thousand feet or more if necessary to provide space for service centers, which shall consist of gasoline service stations, repair shops, restaurants, tourist camps, and other recreational and service facilities. Such right-of-way shall be made to conform to the already established toll or freeways where they are used, regardless of their present width, which may be increased if necessary.

Sec. 13. In the event that it is necessary for the commission to construct any section of the Crozet Superhighway, the commission, is hereby authorized to provide for the cost of such construction by selling revenue bonds without recourse against the federal government. The commission is authorized to levy and collect toll charges from any section which it builds. Such toll charges shall be fixed by the commission at a rate which, together with income derived by the commission from other sources, will provide income sufficient to (1) pay all expenses incident to the operation and maintenance of the superhighway system it builds, (2) pay all interest on the revenue bonds of the commission for the cost of the construction of such section, and (3) contribute to the reserve fund to enable the commission to retire its bonds on or before maturity. This provision may be invoked by the commission only where a state through which the Crozet Superhighway passes does not establish a turnpike commission to perform such construction.

Sec. 14. All contracts for the construction of the Crozet Superhighway and the facilities appurtenant thereto, and for the operation of private businesses at the service centers, shall be awarded by the commission on a competitive basis, except in the case of purchases under five hundred dollars.

Sec. 15. Any toll road constructed by the commission shall revert to the state through which it passes when it has been completely paid for and the state has indicated its willingness to take over, maintain, and operate it.

Sec. 16. The Government of the United States hereby reserves the right in case of war or national emergency declared by Congress to take possession of all or any part of the super-

highway system built under this act for the purpose of transporting troops, military supplies, equipment, and implements of war, but if this right is exercised by the United States it shall pay fair and reasonable compensation for damage suffered by any person who is injured thereby.

Sec. 17. It is the purpose of this act to encourage the development of a transcontinental superhighway to be designated by a route number and known as the Crozet Superhighway. No federal funds shall be expended under this act except in the form of direct grants to offset the benefit to the national defense. The federal government, through the commission with the assistance of the Bureau of Public Roads, shall supervise the construction of any section of the Crozet Superhighway where the state through which it passes does not have a proper toll-road law or will not perform such construction. The commission shall provide for the cost of any section built by it by the sale of revenue bonds without recourse or liability against the federal government; and

WHEREAS, West Virginia should rightfully bear its share of expense of the proposed Crozet Superhighway; and

WHEREAS, A major east-west highway has long been needed in this state along the proposed route hereinabove described; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Crozet Superhighway Established.*—There is
2 hereby established the Crozet Superhighway, to extend
3 across the state on existing or proposed routes, as the
4 state road commission may designate, from near the town
5 of Harpers Ferry on the east passing near Elkins, Sutton
6 and Charleston to near Huntington on the west, such
7 superhighway to become a part of the transcontinental
8 Crozet Superhighway if and when established by
9 Congress.

Sec. 2. *West Virginia Turnpike Commission. Author-*
2 *ized to Secure Preliminary Work on West Virginia Sec-*
3 *tion of Proposed Crozet Superhighway.*—The West Vir-
4 ginia turnpike commission is hereby authorized to expend
5 such of its funds as may be necessary to obtain the pre-
6 liminary surveys and advance engineering which shall

7 determine the practicality of constructing, as part of the
8 proposed transcontinental Crozet Superhighway, a four
9 lane divided highway along the West Virginia sections of
10 the route and according to the general specifications de-
11 scribed in the recitals hereinabove, either as a toll road or
12 as a freeway, as may in the course of events seem advis-
13 able, and which shall determine the exact suitable loca-
14 tion of said highway if it be deemed practical to construct.

CHAPTER 171

(House Bill No. 96—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section one, chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the sale and issuance of road bonds of the state of West Virginia, 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.

[Passed February 8, 1951; in effect from passage. Approved by the Governor.]

Secondary Road Bonds.

Section

1. Road bonds; amount thereof and authority to issue.

Be it enacted by the Legislature of West Virginia:

That section one, chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

- Section 1. *Road Bonds; Amount Thereof and Authority to Issue.*—The remainder of the fifty million dollar issue of secondary road bonds of the state of West Virginia, 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, not yet sold, are hereby authorized to

8 be issued and sold for the purpose of raising funds for
9 the building and construction, or for assisting in the build-
10 ing and construction, of a system of state secondary roads
11 and highways.

CHAPTER 172

(Senate Bill No. 263—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 purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on such bonds and the principal thereof within twenty-five years.

[Passed March 5, 1951; in effect from passage. 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.*—

- 2 Bonds of the state of West Virginia of the par value of

3 ten million dollars are hereby authorized to be issued
4 and sold for the purpose of raising funds for assisting in
5 building, constructing and maintaining the system of
6 roads and highways provided for by the constitution.
7 Such bonds may be issued by the governor in such
8 amounts, in coupon or registered form, in such denomina-
9 tions, at such times and bearing such date or dates as the
10 governor may determine, and shall become due and paya-
11 ble serially in equal amounts beginning one year and
12 ending twenty-five years from the date thereof: *Provided,*
13 *however,* That no bonds may be issued under the provi-
14 sions of this act until bonds authorized and issued under
15 the provisions of the "Good Roads Amendment" to the
16 constitution of the state, ratified at the general election
17 held in November, one thousand nine hundred twenty,
18 have been retired and canceled out of the state road
19 sinking fund created by section six, chapter one hundred
20 thirteen, acts of the Legislature of West Virginia, one
21 thousand nine hundred twenty-one, in an amount equal
22 to or greater than the amount to be issued hereunder at
23 any one time.

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

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

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

7 COUPON ROAD BOND

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

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$_____ No._____

12 The state of West Virginia, under and by virtue of
13 authority of an act of the Legislature passed at the
14 regular session of one thousand nine hundred fifty-one,
15 on the _____ day of _____, one thousand nine hun-
16 dred fifty-one, and approved by the governor on the
17 _____ day of _____, one thousand nine hundred
18 fifty-one, which is hereby made a part hereof as fully as
19 if set forth at length herein, acknowledges itself to be
20 indebted to, and hereby promises to pay to the bearer
21 hereof (in the case of a coupon bond) or to _____
22 or assigns (the owner of record, in case of registered
23 bonds) on the _____ day of _____, 19_____, in lawful
24 money of the United States of America at the office of
25 the treasurer of the state of West Virginia at the capitol

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

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

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

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

59 (Seal)

60

61

Treasurer of the State of West Virginia

62 Countersigned:

63

Auditor of the State of West Virginia

64
Sec. 4. *Form of Coupon.*—The form of coupon shall

2 be substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

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

12 _____
13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his engraved facsimile signature and the coupons shall
16 be numbered in the order of their maturity, from number
17 one consecutively. The bonds and coupons may be signed
18 by the present treasurer and auditor, or by any of their
19 respective successors in office, and bonds signed by the
20 persons now in office may be sold by the governor or his
21 successor in office without being signed by the successor
22 in office of the present treasurer or auditor.

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

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

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

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

19 Such fund shall be applied by the treasurer of the state
20 first to the payment of the semi-annual interest on such
21 bonds as it shall become due as herein provided. The re-
22 mainder of the fund shall be turned over by the state
23 treasurer to the state sinking fund commission, whose
24 duty it shall be to invest the same in bonds of the gov-
25 ernment of the United States, bonds of the state of West
26 Virginia, or any political subdivision thereof: *Provided,*
27 *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 as
30 they become due; and the money so paid into the state
31 road sinking fund under the provisions of this act shall
32 be expended for the purpose of paying the interest and
33 principal of the bonds hereby provided for as they sev-
34 erally become due and payable and for no other purpose
35 except that the fund may be invested until needed, as
36 herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds 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 all
7 real and personal property subject to taxation within
8 this state, sufficient to pay interest on the bonds accruing
9 during the current year and one twenty-fifth of the total
10 issue (at par value) of such bonds, for such number of
11 years, not exceeding twenty-five, as may be necessary to
12 pay the interest thereon and to pay off the principal sum
13 of the bonds; and such taxes, when so collected, shall not
14 be liable for or applicable to any other purpose: *Provided,*
15 *however,* That if there be other funds in the state
16 treasury, or in the state road funds, in any fiscal year, not

17 otherwise appropriated, or if other sources of revenue
18 be hereafter provided by law for the purpose, the board
19 of public works is authorized, empowered and directed
20 to set apart, in any year there be such funds, or other
21 sources of revenue provided for such purpose, a sum
22 sufficient to pay the interest on bonds accruing during the
23 current year, and to pay off, and retire the principal of
24 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 and maintenance purposes, as
5 herein provided, upon recommendation of the state road
6 commission. All sales shall be at not less than par and
7 accrued interest. All interest coupons becoming payable
8 prior to the sale date shall be canceled 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 of West Virginia, one
5 thousand nine hundred thirty-one, as last amended.

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

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—
2 The state auditor shall be the custodian of all unsold
3 bonds 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
5 issued, they shall become full and legal obligations of the
6 state of West Virginia under all of the provisions of this

7 act just as fully and completely as the engraved and per-
8 manent bonds.

Sec. 13. *Payment of Expenses.*—All necessary ex-
2 penses incurred in the execution of this act shall be paid
3 out of the state road fund on warrants of the auditor of
4 the state drawn on the state treasurer.

CHAPTER 173

(Senate Bill No. 293—By Mr. Bean)

AN ACT to amend and reenact section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, relating to refunds of taxes erroneously collected.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 1. Supervision.

Section

2-a. Refund of taxes erroneously collected.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. *Refund of Taxes Erroneously Collected.*—

2 On and after the effective date of this act, any taxpayer
3 claiming to be aggrieved through being required to pay
4 any tax into the treasury of this state, may, within three
5 years from the date of such payment, and not after, file
6 with the official or department through which the tax was
7 paid, a petition in writing to have refunded to him any

8 such tax, or any part thereof, the payment whereof is
9 claimed by him to have been required unlawfully; and
10 if, on such petition, and the proofs filed in support thereof,
11 the official collecting the same shall be of the opinion that
12 the payment of the tax collected, or any part thereof was
13 improperly required, he shall refund the same to the
14 taxpayer by the issuance of his or its requisition on the
15 treasury upon which the auditor shall issue his warrant
16 as hereinafter provided; if the official collecting the same
17 shall be in doubt as to whether or not such taxes were un-
18 lawfully paid, or if he be of the opinion that the payment
19 of the tax collected, or any part thereof, was lawful, and
20 the taxpayer within thirty days after notice of such
21 opinion is not satisfied with the ruling of such official,
22 then such tax official may, on his own initiative, and
23 shall, upon written notice so to do from the taxpayer given
24 within said thirty-day period, promptly institute against
25 said taxpayer, in a court of competent jurisdiction, a
26 declaratory judgment proceeding to ascertain whether
27 any such tax, or part thereof, has been unlawfully col-
28 lected; if it be determined in such proceeding that any
29 such tax, or part thereof was unlawfully collected, then
30 such official shall promptly refund the same to the tax-
31 payer by the issuance of his or its requisition on the
32 treasury; and the auditor shall issue his warrant on the
33 treasurer for any refund requisitioned under this section,
34 payable to the taxpayer entitled to the refund, and the
35 treasurer shall pay such warrant out of the fund into
36 which the amount so refunded was originally paid: *Pro-*
37 *vided, however,* That no refund shall be made at any
38 time on any claim involving the assessed valuation or
39 appraisement of the property which was fixed at the
40 time the tax was originally paid: *And provided further,*
41 That such official shall be under no duty to institute any
42 such declaratory judgment proceeding unless it shall
43 appear that the taxpayer giving the notice as herein pro-
44 vided is acting in good faith and that there is a substantial
45 question as to the lawfulness of the collection of such tax.

CHAPTER 174

(Com. Sub. for House Bill No. 293—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact sections five through five- (fifty-six), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the annual salary of assessors.

[Passed March 10, 1951; 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 sections five through five- (fifty-six), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. *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 five- (one) to five- (fifty-five) inclusive, of this article.

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

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

Sec. 5- (3). *Boone County.*—For the county of Boone, three thousand six 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, three thousand two hundred dollars.

Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 four thousand dollars.

Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, one thousand two hundred dollars.

Sec. 5-(8). *Clay County*.—For the county of Clay, one
2 thousand seven hundred dollars.

Sec. 5-(9). *Doddridge County*.—For the county of Dod-
2 dridge, one thousand eight hundred dollars.

Sec 5-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars
3 nor more than four thousand eight hundred dollars, to
4 be fixed by the county court.

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 eight hundred dollars.

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

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

Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, four 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 Har-
2 rison, five thousand dollars.

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

Sec. 5-(19). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand dollars.

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

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

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

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

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

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

2 Sec. 5-(26). *Mason County*.—For the county of Mason, two thousand five hundred dollars.

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

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

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

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

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

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

2 Sec. 5-(33). *Morgan County*.—For the county of Morgan, not less than one thousand dollars nor more than
3 one thousand eight hundred dollars, to be fixed by the
4 county court.

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

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

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

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

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

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

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

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, four thousand eight hundred dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of Randolph, three thousand four hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie, two thousand dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane, two thousand two hundred dollars.

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

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

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker, two thousand four hundred dollars.

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

2 Sec. 5-(49). *Upshur County*.—For the county of Upshur, two thousand two hundred dollars.

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

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

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

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

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

Sec. 5-(55). *Wyoming County*.—For the county of
2 Wyoming, four thousand five hundred dollars.

Sec. 5-(56). *Additional Compensation; Salaries paid*
2 *out of County Fund*.—In addition to the above salary
3 each assessor shall receive a commission of ten per cent
4 on all state school, road and municipal capitation taxes
5 collected by him. The salaries of assessors and their
6 deputies, assistants and employees shall be paid out of
7 the county fund at the time and in the manner now pro-
8 vided by law for paying other county officers.

CHAPTER 175

(Senate Bill No. 305—By Mr. Martin)

AN ACT to amend and reenact section twelve, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appeals from valuations by the board of public works.

(Passed March 10, 1951: in effect ninety days from passage. Approved by the Governor.)

Article 6. Assessment of Public Service Corporations.

Section

12. Appeal from valuation by board.

Be it enacted by the Legislature of West Virginia:

That section twelve, article six, 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 12. *Appeal from Valuation by Board*.—Any
2 owner or operator claiming to be aggrieved by any such
3 decision may, within the time aforesaid, apply by petition
4 in writing, duly verified, to the circuit court of the county
5 in which the property so assessed is situated, or if such
6 property be situated in more than one county then in the
7 county in which the largest assessment of such owner or

8 operator was made in the next preceding year, for an
9 appeal from the assessment and valuation so made of all
10 such property and jurisdiction is hereby conferred upon
11 and declared to exist in the court, to which such applica-
12 tion is made, to grant, docket and hear such appeal; and
13 such appeal, as to all of the property so assessed, as well
14 as that situated in the county of the court so applied to,
15 as that situated in the several other counties, shall forth-
16 with be allowed by such court so applied to, and be heard
17 by such court as to all of such property as soon as possible
18 after the appeal is docketed; but notice in writing of such
19 petition shall be given to the secretary of the board of
20 public works and to the state tax commissioner, by mail-
21 ing a copy of the petition for an appeal filed as aforesaid,
22 which said petition shall recite the fact that copies of
23 such petition have been sent by registered mail; and
24 notice in writing of the hearing upon such petition shall
25 be given to the state tax commissioner at least fifteen
26 days beforehand. Likewise, the state tax commissioner
27 may, by giving notice in writing at least fifteen days be-
28 forehand to the petitioner, bring on such appeal for
29 hearing. Upon such hearing the court shall hear all such
30 legal evidence as shall be offered on behalf of the state or
31 any county, district or municipal corporation interested,
32 or on behalf of the appealing owner or operator. If the
33 court be satisfied that the value so fixed by the board of
34 public works is correct, it shall confirm the same, but if it
35 be satisfied that the value so fixed by said board is either
36 too high or too low, the court shall correct the valuation
37 so made and shall ascertain and fix the true and actual
38 value of such property according to the facts proved, and
39 shall certify such value to the auditor and to the secretary
40 of the board of public works. The state or the owner or
41 operator may appeal to the supreme court of appeals if
42 the assessed value of the property be fifty thousand dollars
43 or more.

44 If the court to which an application for appeal would
45 properly be made as aforesaid shall not be in session, the
46 judge thereof in vacation, shall forthwith allow the ap-
47 peal, and if the judge thereof be disqualified or for any
48 reason not be available, the filing of the aforesaid petition

49 in the office of the clerk of the circuit court of the county
50 in which the largest assessment of such owner or operator
51 was made in the preceding year, within the time aforesaid
52 shall constitute sufficient compliance with this section,
53 and the appeal shall thereafter be proceeded with as
54 otherwise provided in this section.

CHAPTER 176

(Senate Bill No. 144—By Mr. Love)

AN ACT to amend and reenact sections six-c, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to tax levies by county boards of education under the tax limitation amendment and the school bond amendment.

[Passed February 13, 1951; in effect from passage. Approved by the Governor.]

Article 8. Levies.

Section

6-c. Maximum levies on each classification by county boards of education; order of levy; exceeding levy for school bond issues.

Be it enacted by the Legislature of West Virginia:

That section six-c, article eight, 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 6-c. *Maximum Levies on Each Classification*

2 *by County Boards of Education; Order of Levy; Exceed-*
3 *ing Levy for School Bond Issues.*—County boards of
4 education are hereby authorized to lay not in excess of
5 the following maximum levies, for the purposes specified
6 and in the following order:
7 (1) With respect to a magisterial, independent or
8 other school district existing in a county prior to May
9 twenty-second, one thousand nine hundred thirty-three,
10 or any special taxing district for which the board of edu-
11 cation is required to lay the levy, for the payment of (a)
12 interest and sinking fund requirements for bonded in-

13 indebtedness incurred prior to the adoption of the tax lim-
14 itation amendment; and to the extent not so required;
15 (b) other legally incurred contractual indebtedness not
16 bonded, if any, incurred prior to the adoption of the tax
17 limitation amendment, as follows: On class I property,
18 thirty-five one-hundredths of one cent; on class II prop-
19 erty, seven-tenths of one cent; and on classes III and IV
20 property, one and four-tenths cents.

21 (2) For either or both of (a) the permanent improve-
22 ment fund and (b) the payment of interest and sinking
23 fund requirements for bonded indebtedness incurred
24 subsequent to the adoption of the tax limitation amend-
25 ment, as follows: On class I property, one and five-tenths
26 cents; on class II property, three cents; and on classes III
27 and IV property, six cents.

28 (3) For the general current expenses of schools, as
29 follows: On class I property, twenty-one and one-tenth
30 cents; on class II property, forty-two and two-tenths
31 cents; and on classes III and IV property, eighty-four and
32 four-tenths cents. But if the tax commissioner has ap-
33 proved the levy of an additional amount for the general
34 current expenses of the county as authorized by section
35 six-b, subsection three, the amount of the levy authorized
36 for boards of education by this subsection shall be reduced
37 by the tax commissioner to that extent.

38 If the rates of levy under (2) above are not required
39 in whole or in part for the purposes for which they are
40 allocated by this section, the county board of education
41 may, with the prior written approval of the state board
42 of school finance, created by section three, article nine-b,
43 chapter eighteen of the code, as amended, lay such rates
44 of levy or portion thereof not so required, for the general
45 current expenses of schools: *Provided, however,* That a
46 county board of education shall be required to levy out-
47 side the levy rates hereinabove provided sufficient to pay
48 the principal and interest requirements on bonds here-
49 after issued by any school district not exceeding in the
50 aggregate three per centum of the assessed value of all
51 taxable property in the county school district, to be ascer-
52 tained by the last assessment for state and county taxes,
53 previous to the incurring of such indebtedness, in the

54 manner provided by the "School Bond Amendment," as
55 ratified.

CHAPTER 177

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

AN ACT to amend and reenact section four, article eleven,
chapter eleven of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
inheritance and transfer taxes.

[Passed March 5, 1951; in effect from passage. Approved by the Governor.]

Article 11. Inheritance and Transfer Taxes.

Section

4. Exemptions.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Exemptions.*—(a) All property transferred
2 to the state or to any county, school district, or municipal
3 corporation thereof for public purposes shall be exempt
4 from taxation under this article.
5 (b) No transfer of one hundred dollars or less shall
6 be taxable under this article. For this purpose all
7 transfers from a decedent to the same transferee shall
8 be treated as a unit.
9 (c) In computing the tax upon property transferred
10 to a widow or a widower of a deceased person, an ex-
11 emption of fifteen thousand dollars shall be allowed.
12 (d) In computing the tax upon property transferred
13 to the father, mother, child or stepchild of the decedent
14 there shall be allowed an exemption of five thousand dol-
15 lars; from property transferred to a grandchild of the de-
16 cedent there shall be allowed an exemption of twenty-
17 five hundred dollars.

18 (e) There shall be exempt from taxation under this
19 article all property transferred to a person or corporation,
20 foreign or domestic, in trust or for use solely for educa-
21 tional, literary, scientific, religious or charitable pur-
22 poses: *Provided, however,* That the property so trans-
23 ferred for the purposes herein mentioned and the rentals,
24 profits, and proceeds thereof, are used exclusively in this
25 state, or for the sole benefit of persons domiciled in this
26 state, whether used within or without said state, and
27 provided that such use or uses for the purposes aforesaid
28 shall be evidenced by:

29 (1) Specific provision of a will or other instrument of
30 transfer requiring such use for such purposes; or

31 (2) Transfer to an institution, association, or orga-
32 nized group of persons, corporate or otherwise, or for
33 their use, and whose purposes and activities are devoted
34 exclusively to one or more of the purposes aforesaid; or

35 (3) An agreement with the tax commissioner, satis-
36 factory to him, executed by the trustee or other fiduciary,
37 or beneficiary named in any will or writing that all of the
38 property, rentals, profits, and proceeds received by it un-
39 der the will or other instrument of transfer for one or more
40 of the purposes aforesaid, will be used exclusively for the
41 use and benefit of persons domiciled within the state, or
42 exclusively within this state.

43 This amendment shall apply to all future devises, be-
44 quests, and gifts for such purposes, and shall be retroac-
45 tive and apply to all past devises, bequests, and gifts for
46 such purposes, wherein final payment of transfer or in-
47 heritance taxes has not been made to the state of West
48 Virginia.

CHAPTER 178

(House Bill No. 50—By Mr. Davis)

AN ACT to amend and reenact section twenty-three, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating

to license for private banker or money broker and exceptions thereto.

[Passed February 16, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 12. License Taxes.

Section

23. Private banker or money broker.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, 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 23. *Private Banker or Money Broker.*—The annual license fee to carry on the business of money broker or private banker, shall be twenty-five dollars. The term “money broker” or “private banker” shall include every person, other than a national banking association and all institutions under the jurisdiction of the state banking department, that lends money on real or personal security, discounts paper, cashes time slips or scrip, or engages in any business of a similar or like character.

CHAPTER 179

(Senate Bill No. 210—By Mr. Bean and Mr. Stemple)

AN ACT to amend and reenact section two-b, article thirteen, chapter eleven, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to business and occupation tax with reference to manufactured or compounded products.

[Passed March 6, 1951; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 13. Business and Occupation Tax.

Section

2-b. Manufactured or compounded products; processing of poultry and turkeys not considered as manufacturing or compounding.

Be it enacted by the Legislature of West Virginia:

That section two-b, article thirteen, 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 2-b. *Manufactured or Compounded Products; Processing of Poultry and Turkeys not Considered as Manufacturing or Compounding.*—Upon every person engaging or continuing within this state in the business of manufacturing, compounding, or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article or articles, substance or substances, commodity or commodities, or electric power not produced by public utilities taxable under other provisions of this article, the amount of the tax to be equal to the value of the article, substance, commodities or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same except as herein-after provided, multiplied by a rate of three-tenths of one per cent. The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state. However, the dressing and processing of poultry and turkeys by a person, firm or corporation, which poultry and turkeys are to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products, on a wholesale basis shall be subject to the same tax as is imposed on wholesalers or jobbers as provided in section two-c of this article.

CHAPTER 180

(Senate Bill No. 65—By Mr. Bean and Mr. Stemple)

AN ACT to amend and reenact section three, article thirteen, chapter eleven of the code of West Virginia, one thousand

nine hundred thirty-one, as last amended by chapter one hundred fifty-three, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to tax on production credit associations.

[Passed March 9, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 13. Business and Occupation Tax.

Section

3. Exemptions; non-exempt businesses.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Exemptions; Non-Exempt Businesses.—

2 There shall be an exemption in every case of fifty dol-
3 lars in amount of tax computed under the provisions of
4 this article. A person exercising a privilege taxable
5 hereunder for a fractional part of a tax year shall be
6 entitled to an exemption of the sum bearing the pro-
7 portions to fifty dollars that the period of time the
8 privilege is exercised bears to a whole year. Only one
9 exemption shall be allowed to any one person, whether
10 he exercises one or more privileges taxable hereunder.

11 The provisions of the article shall not apply to: (a)
12 Insurance companies which pay the state of West Vir-
13 ginia a tax upon premiums: *Provided, however,* That
14 said exemption shall not extend to that part of the gross
15 income of insurance companies which is received for the
16 use of real property, other than property in which any
17 such company maintains its office or offices, in this state,
18 whether such income be in the form of rentals or royal-
19 ties; (b) persons, engaged in the business of banking:
20 *Provided, however,* That said exemption shall not ex-
21 tend to that part of the gross income of such persons
22 which is received for the use of real property owned,

23 other than the banking house or building in which the
24 business of the bank is transacted, whether such income
25 be in the form of rentals or royalties; (c) non-profit
26 cemetery companies organized and operated for the ex-
27 clusive benefit of their members; (d) societies, organiza-
28 tions and associations organized and operated for the
29 exclusive benefits of their members and not for profit;
30 (e) corporations, associations and societies organized and
31 operated exclusively for religious or charitable purposes;
32 (f) production credit association, organized under the
33 provisions of the federal "Farm Credit Act of 1933":
34 *Provided, however,* That the exemptions of this section
35 shall not apply to corporations or cooperative associations
36 organized under the provisions of article four, chapter
37 nineteen of the code of West Virginia, one thousand nine
38 hundred thirty-one, as amended; (g) building and loan
39 associations and federal savings and loan associations;
40 (h) persons engaged in conducting the business of in-
41 dustrial loans under authority granted them by article
42 seven, chapter thirty-one of the code of West Virginia,
43 one thousand nine hundred thirty-one: *Provided, how-*
44 *ever,* That said exemption shall not extend to that part
45 of the gross income of such persons which is received
46 from the use of real property owned, other than the
47 business house or building in which the business of the
48 industrial loan company is transacted, whether such in-
49 come be in the form of rentals or royalties.

CHAPTER 181

(Senate Bill No. 290—By Mr. Amos)

AN ACT to amend and reenact section two, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consumers sales tax.

[Passed March 10, 1951: in effect July 1, 1951. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

2. Definitions.

Be it enacted by the Legislature of West Virginia:

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

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

2 (1) "Persons" shall mean any person, firm, partner-
3 ship, association, corporation, guardian, or committee;

4 (2) "Tax commissioner" shall mean the state tax com-
5 missioner;

6 (3) "Gross proceeds" shall mean the amount received
7 in money, credits, property or other consideration from
8 sales at retail within this state, without deduction on
9 account of the cost of the property sold, amounts paid
10 for interest or discounts or other expenses whatsoever.
11 Losses shall not be deducted, but any credit or refund
12 made for goods returned may be deducted;

13 (4) "Sales at retail" shall mean any transaction by
14 which the ownership of tangible personal property is
15 transferred for a consideration, when the transfer is made
16 in the ordinary course of the transferor's business and
17 is made to the transferee for consumption or use or any
18 other purpose, except resale in its original form without
19 change or processing. "Sale at retail" includes condi-
20 tional sales and transactions under whatever name
21 whereby title is ultimately to pass, but presently retained
22 for security. "Sale at retail" shall not include an isolated
23 transaction in which any tangible personal property is
24 sold, transferred, offered for sale, or delivered by the
25 owner thereof, or by his representative for the owner's
26 account, such sales, transfer, offer for sale or delivery
27 not being made in the ordinary course of repeated and
28 successive transactions of a like character by such owner
29 or on his account by such representative;

30 (5) "Retail dealer" shall mean a person engaged in
31 the business of sale at retail, or one who furnishes serv-
32 ices taxed by this article, in this state, to the ultimate
33 consumer;

34 (6) "Wholesale dealer" shall mean a person engaged
35 in this state in the business of selling tangible personal
36 property or furnishing services to retail dealers for resale
37 only; but such person, when sales are made for personal

38 consumption or use, shall, with respect to such sales, be
39 classified as a "retail dealer"; and the fact that the pur-
40 chaser has a store license shall not exempt him from
41 paying the tax on the retail value of the goods or services
42 bought unless he is a bona fide retail dealer of such goods
43 or services. The term "wholesale dealer" shall also in-
44 clude any person engaged in this state in the business of
45 selling machinery, supplies and materials or of furnishing
46 services to churches, incorporated charitable organiza-
47 tions, contractors or to persons engaged in the business
48 of manufacturing, transportation, transmission, communi-
49 cation, or in the production of natural resources in this
50 state: *Provided, however,* That this exemption shall not
51 apply to fraternal or social organizations, nor to charit-
52 able organizations which charge for services rendered;

53 (7) "Ultimate consumer" shall mean a person who
54 uses or consumes services or personal property for the
55 immediate satisfaction of human desires or requirements,
56 distinguished from services and goods, used or consumed
57 in connection with the conduct of the business of pro-
58 ducing or selling personal property or dispensing a serv-
59 ice taxable under this article;

60 (8) "Business" shall include all activities engaged in
61 or caused to be engaged in with the object of gain or
62 economic benefit, direct or indirect;

63 (9) "Tax" shall include all taxes, interest or penalties
64 levied hereunder;

65 (10) "Purchaser" shall mean a person who purchases
66 tangible personal property or a service taxed by this
67 article;

68 (11) "Service, or selected service" shall include all
69 non-professional activities engaged in for other persons
70 for a consideration, which involve the rendering of a
71 service as distinguished from the sale of tangible prop-
72 erty, but shall not include personal services or the serv-
73 ices rendered by an employee to his employer or any
74 service rendered for resale.

75 (12) "Personal service" shall include those:

76 (a) Compensated by the payment of wages in the
77 ordinary course of employment;

78 (b) Rendered to the person of an individual without,

79 at the same time, selling tangible personal property or
80 the use of such property, such as nursing, barbering,
81 shoe shining, manicuring, and similar services;
82 (13) "Taxpayer" shall mean a retail dealer.

CHAPTER 182

(Senate Bill No. 299—By Mr. Johnston, Mr. President)

AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consumers sales tax exemptions.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

9. Sales not included.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Sales Not Included.*—The provisions of this
2 article shall not apply to:
3 (1) Sales of gasoline, taxable under article fourteen,
4 chapter eleven of this code.
5 (2) Sales of gas, steam and water delivered to con-
6 sumers through mains or pipes, and sales of electricity.
7 (3) Sales of school books required to be used in any
8 of the schools of this state.
9 (4) Sales to the state, its institutions or subdivisions,
10 and sales to the United States, including sales to agencies
11 of federal, state or local governments for distribution in
12 public welfare or relief work.
13 (5) Sales on motor vehicles which are titled by the
14 state road commission.

CHAPTER 183

(Com. Sub. for Senate Bill No. 127—Originating in the Senate Committee on Finance)

AN ACT to amend chapter eleven 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-a, relating to an excise tax on the privilege of using within this state any article of tangible personal property purchased for use in this state, providing for the payment and collection of such tax, and prescribing penalties for the violation thereof.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 15-a. Use Tax.

Section

1. Definitions.
2. Imposition of tax.
3. Exemptions.
4. Evidence of use.
5. How collected.
6. Collection by retailer.
7. Foreign retailers.
8. Absorbing tax.
9. Tax as debt.
10. Payment to tax commissioner.
11. Liability of user.
12. Bond to secure payment.
13. Determination by tax commissioner.
14. Appeal.
15. Service of notice.
16. Failure to pay; penalties.
17. Assessment; levy to collect tax.
18. Seller must show sale not at retail; presumption.
19. Fraud.
20. Criminal penalty.
21. Books; examination.
22. Revoking permits.
23. Tax imposed is in addition to all other taxes and charges.
24. Refund.
25. Administration of article.
26. Proceeds of tax for free schools.
27. Partial unconstitutionality.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definitions.*—The following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

2. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property, intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat or steam for processing or for generating electric current, (c) industrial materials and equipment, which are not readily obtainable in West Virginia, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

3. "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

4. "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

5. "Tangible personal property" means tangible goods, wares, and merchandise when furnished or delivered within this state to consumers or users within this state.

6. "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this article: *Provided*,

42 however, That when in the opinion of the tax commis-
43 sioner it is necessary for the efficient administration of
44 this article to regard any salesmen, representatives,
45 truckers, peddlers or canvassers as the agents of the
46 dealers, distributors, supervisors, employers or persons
47 under whom they operate or from whom they obtain the
48 tangible personal property sold by them, irrespective of
49 whether they are making sales on their own behalf or
50 on behalf of such dealers, distributors, supervisors, em-
51 ployers, or persons, the tax commissioner may so regard
52 them and may regard the dealers, distributors, super-
53 visors, employers, or persons as retailers for purposes of
54 this article.

55 7. "Retailer maintaining a place of business in this
56 state" or any like term shall mean and include any re-
57 tailer having or maintaining within this state, directly or
58 by a subsidiary, an office, distribution houses, sales house,
59 ware-house, or other place of business, or any agent oper-
60 ating within this state under the authority of the retailer
61 or its subsidiary, irrespective of whether such place of
62 business or agent is located here permanently or tem-
63 porarily, or whether such retailer or subsidiary is ad-
64 mitted to do business within this state pursuant to section
65 seventy-nine, article one, chapter thirty-one of the code
66 of West Virginia, one thousand nine hundred thirty-one.

67 8. The word "commissioner" means the state tax com-
68 missioner.

69 9. The word "taxpayer" includes any person within
70 the meaning of subsection one hereof, who is subject to a
71 tax imposed by this article, whether acting for himself or
72 as a fiduciary.

Sec. 2. *Imposition of Tax.*—An excise tax is hereby
2 imposed on the use in this state of tangible personal
3 property furnished or delivered within this state to con-
4 sumers or users within this state on or after the effec-
5 tive date of this article, at the rate of two per cent of the
6 purchase price of such property. Said tax is hereby im-
7 posed upon every person using such property within this
8 state until such tax has been paid directly to a retailer, or
9 to the state tax commissioner as hereinafter provided.

10 Purchases of tangible personal property made from the
11 government of the United States or any of its agencies
12 by ultimate consumers shall be subject to the tax imposed
13 by this section. Industrial materials and equipment owned
14 by the federal government within the state of West Vir-
15 ginia of a character not ordinarily readily obtainable
16 within the state, shall not be subject to use tax when
17 sold, if such industrial materials and equipment would not
18 be subject to use tax if such were sold outside of the state
19 for use in West Virginia.

20 This act shall not apply to purchases made by counties
21 or municipal corporations.

Sec. 3. *Exemptions.*—The use in this state of the fol-
2 lowing tangible personal property is hereby specifically
3 exempted from the tax imposed by this article.

4 1. All articles of tangible personal property brought
5 into the state of West Virginia by a non-resident indi-
6 vidual thereof for his or her use or enjoyment while
7 within the state.

8 2. Tangible personal property, the gross receipts from
9 the sale of which are exempted from the retail sales tax
10 by the terms of section nine, article fifteen, chapter eleven
11 of the code of West Virginia, one thousand nine hundred
12 thirty-one.

13 3. Tangible personal property, the gross receipts from
14 the sale of which are derived from the sale of machinery,
15 supplies and materials to contractors, or to persons en-
16 gaged in the business of manufacturing, transportation,
17 transmission, communication or in the production of nat-
18 ural resources in this state.

19 4. Tangible personal property, the gross receipts or
20 the gross proceeds from the sale of which are required
21 to be included in the measure of the tax imposed by arti-
22 cle fifteen, chapter eleven of the code of West Virginia,
23 one thousand nine hundred thirty-one, and any amend-
24 ment made or which may hereafter be made thereto.

25 5. Tangible personal property the sale of which in this
26 state is not subject to the West Virginia Consumers' Sales
27 Tax.

Sec. 4. *Evidence of Use.*—For the purpose of the

2 proper administration of this article to prevent evasion
3 of the tax, evidence that tangible personal property was
4 sold by any person for delivery in this state shall be
5 prima facie evidence that such tangible personal property
6 was sold for use in this state.

Sec. 5. *How Collected.*—The tax herein imposed shall
2 be collected in the following manner:

- 3 1. The tax upon the use of all tangible personal prop-
4 erty, which is sold by a retailer maintaining a place of
5 business in this state, or by such other retailer as the tax
6 commissioner shall authorize pursuant to section seven
7 of this article shall be collected by such retailer and re-
8 mitted to the state tax commissioner, pursuant to the
9 provisions of sections six to ten, inclusive of this article.
- 10 2. The tax upon the use of all tangible personal prop-
11 erty not paid pursuant to subsection one of this section
12 shall be paid to the tax commissioner directly by any
13 person using such property within this state, pursuant
14 to the provisions of section eleven of this article.

Sec. 6. *Collection by Retailer.*—Every retailer main-
2 taining a place of business in this state and making sales
3 of tangible personal property for use in this state, not
4 exempted under the provisions of section three of this
5 article, shall at the time of making such sales, whether
6 within or without the state, collect the tax imposed by this
7 article from the purchaser, and give to the purchaser a
8 receipt therefor in the manner and form prescribed by
9 the tax commissioner, if the tax commissioner shall, by
10 regulation, require such receipt. Each such retailer shall
11 list with the tax commissioner the name and address of
12 all his agents operating in this state, and the location of
13 any and all his distribution or sales houses or offices or
14 other places of business in this state.

Sec. 7. *Foreign Retailers.*—The tax commissioner may,
2 in his discretion, upon application authorize the collec-
3 tion of the tax herein imposed by any retailer not main-
4 taining a place of business within this state, who, to the
5 satisfaction of the tax commissioner furnishes adequate
6 security to insure collection and payment of the tax. Such
7 retailer shall be issued, without charge, a permit to col-

8 lect such tax in such manner, and subject to such regula-
9 tions and agreements as the tax commissioner shall pre-
10 scribe. When so authorized, it shall be the duty of such
11 retailer to collect the tax upon all tangible personal prop-
12 erty sold to his knowledge for use within this state, in
13 the same manner and subject to the same requirements as
14 a retailer maintaining a place of business within this
15 state. Such authority and permit may be cancelled when,
16 at any time, the tax commissioner considers the security
17 inadequate, or that such tax can more effectively be col-
18 lected from the person using such property in this state.

Sec. 8. *Absorbing Tax.*—It shall be unlawful for any
2 retailer to advertise or hold out or state to the public or
3 to any purchaser, consumer or user, directly or indirectly,
4 that the tax or any part thereof imposed by this article
5 will be assumed or absorbed by the retailer or that it will
6 not be added to the selling price of the property sold, or if
7 added that it or any part thereof will be refunded. The
8 tax commissioner shall have the power to adopt and
9 promulgate rules and regulations for adding such tax, or
10 the equivalent thereof, by providing different methods
11 applying uniformly to retailers within the same general
12 classification for the purpose of enabling such retailers
13 to add and collect, as far as practicable, the amount of
14 such tax. Any person violating any of the provisions of
15 this section within this state shall be guilty of a misde-
16 meanor and subject to the penalties provided in section
17 twenty of this article.

Sec. 9. *Tax as Debt.*—The tax herein required to be
2 collected by any retailer pursuant to sections six or seven,
3 and any tax collected by any retailer pursuant to said
4 sections, shall constitute a debt owed by the retailer to
5 this state.

Sec. 10. *Payment to Tax Commissioner.*—Each re-
2 tailer required or authorized, pursuant to sections six or
3 seven, to collect the tax herein imposed, shall be required
4 to pay to the tax commissioner the amount of such tax on
5 or before the fifteenth day of the month next succeeding
6 each quarterly period, the first such quarterly period
7 being the period commencing on the first day of July; one

8 thousand nine hundred fifty-one, and ending on the thir-
9 tieth day of September, one thousand nine hundred fifty-
10 one. At such time, each retailer shall file with the tax com-
11 missioner a return for the preceding quarterly period in
12 such form as may be prescribed by the tax commissioner
13 showing the sales price of any or all tangible personal prop-
14 erty sold by the retailer during such preceding quarterly
15 period, the use of which is subject to the tax imposed by
16 this article, and such other information as the tax com-
17 missioner may deem necessary for the proper adminis-
18 tration of this article. The return shall be accompanied
19 by a remittance of the amount of such tax, for the period
20 covered by the return, provided that where such tangible
21 personal property is sold under a conditional sales con-
22 tract, or under any other form of sale wherein the pay-
23 ment of the principal sum, or a part thereof, is extended
24 over a period longer than sixty days from the date of the
25 sale thereof, the retailer may collect and remit each quar-
26 terly period that portion of the tax—equal to two per cent
27 of that portion of the purchase price actually received
28 during such quarterly period. The tax commissioner, if
29 he deems it necessary in order to insure payment to the
30 state of the amount of such tax, may in any or all cases
31 require returns and payments of such amount to be made
32 for other than quarterly periods. The tax commissioner
33 may, upon request and a proper showing of the necessity
34 therefor, grant an extension of time not to exceed thirty
35 days for making any return and payment. Returns shall
36 be signed by the retailer or his duly authorized agent,
37 and must be certified by him to be correct.

Sec. 11. *Liability of User.*—Any person who uses any
2 tangible personal property upon which the tax herein im-
3 posed has not been paid either to a retailer or direct to the
4 tax commissioner as herein provided, shall be liable
5 therefor, and shall on or before the fifteenth day of the
6 month next succeeding each quarterly period pay the tax
7 herein imposed upon all such property used by him during
8 the preceding quarterly period in such manner and ac-
9 companied by such returns as the tax commissioner shall
10 prescribe. All of the provisions of section ten with refer-

11 ence to such returns and payment shall be applicable to
12 the returns and payments herein required.

Sec. 12. *Bond to Secure Payment.*—The tax commis-
2 sioner may, when in his judgment it is necessary and ad-
3 visable to do so in order to secure the collection of the
4 tax levied under this article, authorize any person subject
5 to such tax, and any retailer required or authorized to
6 collect such tax pursuant to the provisions of sections
7 six and seven, to file with him a bond issued by a surety
8 company authorized to transact business in this state and
9 approved by the insurance commissioner as to solvency
10 and responsibility, in such amount as the tax commis-
11 sioner may fix, to secure the payment of any tax, amount,
12 and/or penalties due or which may become due from such
13 person. In lieu of such bond, securities approved by the
14 tax commissioner, in such amount as he may prescribe,
15 may be deposited with him, which securities shall be kept
16 in the custody of the state treasurer and may be sold by
17 him at public or private sale, after notice to the de-
18 positor thereof, if it becomes necessary to do so in order
19 to recover any tax and/or penalties due. Upon any such
20 sale, the surplus, if any, above the amounts due under
21 this article shall be returned to the person who deposited
22 the securities.

Sec. 13. *Determination by Tax Commissioner.*—If any
2 return required by this article is not filed, or if a return
3 when filed is incorrect or insufficient and the maker fails
4 to file a corrected or sufficient return within twenty days
5 after the same is required by notice from the tax commis-
6 sioner, such tax commissioner shall determine the amount
7 of the tax due, from such evidence as he may be able
8 to obtain. The tax commissioner shall give notice of such
9 determination to the person liable for the tax. Such
10 determination shall finally and irrevocably fix the tax
11 unless the person against whom it is assessed shall,
12 within thirty days after the giving of notice of such
13 determination apply to the tax commissioner for a hearing
14 or unless the tax commissioner of his own motion shall
15 reduce the same. At such hearing evidence may be offered
16 to support such determination or to prove that it is in-

17 correct. After such hearing the tax commissioner shall
18 within a reasonable time give notice of his decision to
19 the person liable for the tax.

Sec. 14. *Appeal.*—An appeal may be taken by the tax-
2 payer to the circuit court of the county in which he re-
3 sides, or in which his principal place of business is lo-
4 cated, within thirty days after he shall have received
5 notice from the tax commissioner of his determination as
6 provided for in section thirteen of this article.

7 The appeal shall be taken by a written notice to the tax
8 commissioner and served as an original notice. When said
9 notice is so served it shall with the return thereon, be
10 filed in the office of the clerk of said circuit court, and
11 docketed as other cases, with the taxpayer as plaintiff
12 and the tax commissioner as defendant. The plaintiff
13 shall file with such clerk a bond for the use of the de-
14 fendant, with sureties approved by such clerk, in penalty
15 at least double the amount of tax appealed from, and in
16 no case shall the bond be less than fifty dollars, condi-
17 tioned that the plaintiff shall perform the orders of the
18 court.

19 The court shall hear the appeal in equity and determine
20 anew all questions submitted to it on appeal from the
21 determination of the tax commissioner. In such appeal
22 the burden of proof shall be upon the taxpayer. The court
23 shall render its decree thereon and a certified copy of said
24 decree shall be filed by the clerk of said court with the
25 tax commissioner who shall then correct the assessment
26 in accordance with said decree. An appeal may be taken
27 by the taxpayer or the tax commissioner to the supreme
28 court of Appeals of this state in the same manner that
29 appeals are taken in suits in equity.

Sec. 15. *Service of Notice.*—Any notice, except notice
2 of appeal, authorized or required under the provisions of
3 this article may be given by mailing the same to the per-
4 son for whom it is intended by registered mail, addressed
5 to such person at the address given in last return filed by
6 him pursuant to the provisions of this article, or if no
7 return has been filed, then to such address as may be ob-
8 tainable. The mailing of such notice shall be presumptive

9 evidence of the receipt of the same by the person to whom
10 addressed. Any period of time which is determined ac-
11 cording to the provision of this article by the giving of
12 notice shall commence to run from the date of registra-
13 tion and posting of such notice.

Sec. 16. *Failure to Pay; Penalties.*—Any person failing
2 to file a return or corrected return or to pay any tax
3 and/or amount required to be paid by this article within
4 the time required by this article, shall be subject to a
5 penalty of five per cent of the amount due plus one per
6 cent of such amount for each month of delay or fraction
7 thereof, after such return was required to be filed or such
8 tax or amount became due; but the tax commissioner, if
9 satisfied that the delay was excusable, may remit all or
10 any part of such penalty. Such penalty shall be paid to the
11 tax commissioner. Unpaid penalties may be enforced in
12 the same manner as the tax imposed by this article. The
13 certificate of the tax commissioner to the effect that a tax
14 and/or amount required to be paid by this article has not
15 been paid, that a return has not been filed, or that infor-
16 mation has not been supplied pursuant to the provisions
17 of this article, shall be prima facie evidence thereof.

Sec. 17. *Assessment; Levy to Collect Tax.*—The tax
2 commissioner shall have power to make an assessment
3 against any person subject to the tax imposed by this
4 article which is due and unpaid. Such assessment may
5 include penalties. The tax commissioner may collect
6 such assessment by levy, action at law, distraint or any
7 other method of enforcing or collecting taxes which may
8 be provided by law and shall have the right to file liens
9 therefor in any county.

Sec. 18. *Seller Must Show Sale Not at Retail; Presump-
2 tion.*—The burden of proving that a sale was not at retail
3 shall be upon the seller, unless he takes from the pur-
4 chaser a certificate signed by and bearing the address of
5 the purchaser to the effect that the property was pur-
6 chased for resale. To prevent evasion it shall be pre-
7 sumed that all proceeds are subject to the tax until the
8 contrary is clearly established.

Sec. 19. *Fraud.*—Any person required to make, render,

2 sign, or certify any return or supplementary return,
3 who makes any false or fraudulent return with intent
4 to defeat or evade the tax, and/or amount required to
5 be paid by this article, shall be guilty of a misdemeanor
6 and shall, for each such offense, be fined not less than
7 fifty dollars and not more than five hundred dollars, or
8 be confined in jail not more than sixty days, or be sub-
9 ject to both such fine and confinement in the discretion
10 of the court.

Sec. 20. *Criminal Penalty.*—Any retailer or other per-
2 son failing or refusing within a reasonable time to fur-
3 nish any return herein required to be made, or failing or
4 refusing within a reasonable time to furnish a supple-
5 mental return or other data required by the tax com-
6 missioner, shall be guilty of a misdemeanor and subject
7 to a fine of not to exceed one hundred dollars for each
8 such offense, or to imprisonment for not to exceed thirty
9 days, or to both such fine and imprisonment in the dis-
10 cretion of the court.

Sec. 21. *Books; Examination.*—Every retailer required
2 or authorized to collect taxes imposed by this article
3 and every person using in this state tangible personal
4 property purchased on or after the effective date of this
5 article, shall keep such records, receipts, invoices, and
6 other pertinent papers as the tax commissioner shall
7 require, in such form as the tax commissioner shall re-
8 quire. The tax commissioner or any of his duly author-
9 ized agents is hereby authorized to examine the books,
10 papers, records, and equipment of any person either
11 selling tangible personal property or liable for the tax
12 imposed by this article, and to investigate the character
13 of the business of any such person in order to verify the
14 accuracy of any return made, or if no return was made
15 by such person, to ascertain and determine the amount
16 due under the provisions of this article. Any such books,
17 papers, and records shall be made available within this
18 state for such examination upon reasonable notice when
19 the tax commissioner shall deem it advisable and shall
20 so order. However, where the taxpayer's records must
21 be kept out of state, the taxpayer may upon being noti-

22 fied by the tax commissioner that an examination is to
23 be made, elect to do one of the following: (1) Forthwith
24 transport the required records to a convenient point in
25 West Virginia and notify the tax commissioner that they
26 are available; or (2) pay the reasonable traveling ex-
27 penses of the tax commissioner's representatives from
28 Charleston, West Virginia, to the out of state place where
29 the records are kept, and return, and reasonable living
30 expenses of such representatives while engaged in their
31 examination.

Sec. 22. *Revoking Permits.*—Whenever any retailer
2 maintaining a place of business in this state, or authorized
3 to collect the tax herein imposed pursuant to section
4 seven of this article fails to comply with any of the pro-
5 visions of this article or any orders, rules or regulations
6 of the tax commissioner prescribed and adopted under
7 this article, the tax commissioner may, upon notice and
8 hearing hereinafter provided, by order revoke the store
9 license, if any, issued to such retailer under article
10 thirteen-a, chapter eleven of the code of West Virginia,
11 one thousand nine hundred thirty-one, as amended, or
12 if such retailer is a corporation authorized to do business
13 in this state under section seventy-nine, article one,
14 chapter thirty-one of said code, may certify to the secre-
15 tary of state a copy of an order finding that such retailer
16 has failed to comply with certain specified provisions,
17 orders, rules or regulations. The secretary of state shall,
18 upon receipt of such certified copy, revoke the permit
19 authorizing said corporation to do business in this state,
20 and shall issue a new permit only when such corporation
21 shall have obtained from the tax commissioner an order
22 finding that such corporation has complied with its ob-
23 ligations under this article. No order authorized in this
24 section shall be made until the retailer is given an op-
25 portunity to be heard and to show cause why such order
26 should not be made, and he shall be given twenty days
27 notice of the time, place, and purpose of such hearing.
28 The tax commissioner shall have the power in his dis-
29 cretion to issue a new store permit after such revocation.

Sec. 23. *Tax Imposed Is in Addition to all other Taxes
2 and Charges.*—The tax imposed under this article shall

3 be in addition to all other taxes, licenses or charges to
4 which the persons taxed herein are subject under the law
5 of this state. It is the purpose of this article to rest a
6 fair share of the tax burden, commensurate with the
7 benefits received, upon those exercising the privilege
8 taxed hereby within this state.

Sec. 24. *Refund.*—All claims for the refund of over-
2 payments of the tax imposed by this article must be ac-
3 companied by amended returns showing the amount of
4 taxes due, the amount paid in error and the amount
5 overpaid. Where such error is not apparent from an
6 examination of the return, the taxpayer must furnish
7 a full and complete statement of the reasons for the dif-
8 ferences between the original and amended returns.
9 Before finally passing upon a claim the tax commissioner
10 may require the production of any further evidence con-
11 sidered necessary in order to arrive at a correct finding.
12 The tax commissioner can issue refunds of the tax im-
13 posed by this article only where application for such
14 refund is made within two years from the date of pay-
15 ment of such tax as provided for in section two-a, article
16 one, chapter eleven of the code of West Virginia, one
17 thousand nine hundred thirty-one, as amended.

Sec. 25. *Administration of Article.*—The administra-
2 tion of this article is vested in and shall be exercised by
3 the tax commissioner who shall prescribe forms and
4 reasonable rules and regulations in conformity with this
5 article for the making of returns and for the ascertain-
6 ment, assessment and collection of the taxes imposed
7 hereunder; and the enforcement of any provisions of this
8 article in any of the courts of the state shall be under the
9 exclusive jurisdiction of the tax commissioner.

Sec. 26. *Proceeds of Tax for Free Schools.*—The pro-
2 ceeds of the tax imposed by this article shall be devoted
3 to the support of the free schools, and be expended in
4 such manner as may be provided by law.

Sec. 27. *Partial Unconstitutionality.*—The provisions of
2 this article shall be deemed to be severable and if for any
3 reason any provision shall be determined to be uncon-

- 4 stitutional or invalid, such determination shall not be
5 held to affect any other provision hereof.

CHAPTER 184

(House Bill No. 58—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section six-a, relating to the imposition, collection and disposition of an additional barrel tax on nonintoxicating beer manufactured, sold or distributed in this state.

[Passed February 1, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

6-a. Additional barrel tax for payment of veterans' bonus bonds.

Be it enacted by the Legislature of West Virginia:

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

Section 6-a. *Additional Barrel Tax for Payment of Veterans' Bonus Bonds.*—For the purpose of providing revenue for the payment of bonds issued under and by virtue of the veterans' bonus amendment to the constitution, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, an additional tax of two dollars and seventy-five cents on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed on and after such date on all nonintoxicating beer manufactured outside of this state

14 and brought into this state for sale within this state. Ex-
15 cept as otherwise provided in this section, all provisions
16 of this article relating to the levy, imposition and collec-
17 tion of the regular barrel tax on beer manufactured, sold
18 or distributed in this state shall be applicable to the levy,
19 imposition and collection of such additional barrel tax.
20 Notwithstanding other provisions of this article to the
21 contrary, all moneys received from the additional tax
22 imposed by this section, less deductions allowed by this
23 article for costs of administration and enforcement, shall
24 be paid into the veterans' bonus sinking fund, to be used
25 solely for the payment of veterans' bonus bonds and the
26 interest due thereon. Whenever in any fiscal year the
27 amount of money accumulated in the veterans' bonus
28 sinking fund shall be sufficient to pay at maturity all out-
29 standing bonus bonds, together with the interest due or
30 payable thereon, the additional tax imposed by this sec-
31 tion shall expire at the end of such fiscal year.

CHAPTER 185

(Com. Sub. for Senate Bill No. 39—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section twelve, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licenses for the sale of nonintoxicating beer, and prohibiting licenses for such sale in the vicinity of schools and churches.

[Passed March 6, 1951: in effect ninety days from passage. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

12. Form of application for license; fee and bond; refusal of license.

Be it enacted by the Legislature of West Virginia:

That section twelve, article sixteen, 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 12. *Form of Application for License; Fee and*

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

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

19 (b) The place of birth of applicant and that he is a
20 citizen of the United States and, if a naturalized citizen,
21 when and where naturalized; and, if a corporation, organ-
22 ized or authorized to do business under the laws of the
23 state, when and where incorporated, with the names and
24 address of each officer; that each officer is a citizen of the
25 United States and a person of good moral character; and
26 if a firm, association or partnership, the place of birth of
27 each member of the firm, association or partnership, that
28 each member is a citizen of the United States and if a
29 naturalized citizen, when and where naturalized, each of
30 whom must qualify and sign the application: *Provided,*
31 *however,* That the requirements as to residence shall not
32 apply to the officers of a corporation which shall apply
33 for a class B retailer's license, but the officers, agent, or
34 employee who shall manage and be in charge of the li-
35 censed premises shall possess all of the qualifications re-
36 quired of an individual applicant for a retailer's license,
37 including the requirement as to residence;

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

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

43 (e) That the place or building in which it is proposed
44 to do business conforms to all laws of health and fire reg-
45 ulations applicable thereto, and is a safe and proper place
46 or building, and is not within three hundred feet of any
47 school or church, measured from front door to front door
48 along the street or streets: *Provided, however,* That this
49 requirement shall not apply to a class B licensee, or to
50 any place now occupied by a beer licensee, so long as it is
51 continuously so occupied;

52 (f) That the applicant has never been convicted of a
53 felony, or a violation of the liquor laws either federal or
54 state;

55 (g) That the applicant is the only person in any man-
56 ner pecuniarily interested in the business so asked to be
57 licensed, and that no other person shall be in any manner
58 pecuniarily interested therein during the continuance of
59 the license;

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

64 The foregoing provisions and requirements are man-
65 datory prerequisites for the issuance of a license, and in
66 the event any applicant fails to qualify under the same,
67 license shall be refused. In addition to the information
68 furnished in any application, the commissioner may make
69 such additional and independent investigation of each
70 applicant, and of the place to be occupied, as deemed
71 necessary or advisable; and for this reason each and all
72 applications, with license fee and bond, must be filed
73 thirty days prior to the beginning of any fiscal year, and if
74 application is for an unexpired portion of any fiscal year,
75 issuance of license may be withheld for such reasonable
76 time as necessary for investigation.

77 The commissioner may refuse a license to any applicant
78 under the provisions of this article if he shall be of the
79 opinion:

80 (a) That the applicant is not a suitable person to be
81 licensed; or,

82 (b) That the place to be occupied by the applicant is
83 not a suitable place; or is within three hundred feet
84 of any school or church, measured from front door to
85 front door along the street or streets: *Provided, however,*
86 That this requirement shall not apply to a class B li-
87 censee, or to any place now occupied by a beer licensee,
88 so long as it is continuously so occupied; or,

89 (c) That the license should not be issued for reason of
90 conduct declared to be unlawful by this article.

CHAPTER 186

(Senate Bill No. 284—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section eighteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salary of the nonintoxicating beer commissioner.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

18. Office of nonintoxicating beer commissioner created; deputy commissioner and agents; bonds; payment of administration and enforcement expenses.

Be it enacted by the Legislature of West Virginia:

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

- Section 18. *Office of Nonintoxicating Beer Commissioner Created; Deputy Commissioner and Agents; Bonds; Payment of Administration and Enforcement Expenses.*—
2 *er Created; Deputy Commissioner and Agents; Bonds;*
3 *Payment of Administration and Enforcement Expenses.*—
4 (a) The office of an independent administrator to be
5 known as "West Virginia Nonintoxicating Beer Com-
6 missioner" is hereby created and the administration of

7 this article is vested in and shall be exercised by said
8 commissioner, to whom is hereby given all necessary pow-
9 er and authority in the premises.

10 Whenever, in this article, the word "commissioner"
11 or "tax commissioner" is used, it shall mean the "West
12 Virginia Nonintoxicating Beer Commissioner". All acts
13 heretofore performed by the tax commissioner under
14 the provisions of this article are ratified and confirmed,
15 and the commissioner shall succeed to the same position
16 maintained by the tax commissioner in all proceedings
17 and official acts instituted and perfected under the pro-
18 visions of this article prior to the appointment of the
19 commissioner. The commissioner shall be appointed by
20 the governor with the advice and consent of the senate.
21 The term of office for such commissioner shall be six
22 years from the date of his appointment and until his
23 successor shall have been appointed and qualified. The
24 commissioner shall receive an annual salary of seven
25 thousand dollars.

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

35 (c) The commissioner, with the consent of the gover-
36 nor, shall appoint a deputy commissioner who shall have
37 the same qualifications as are required of a commissioner.
38 The deputy commissioner in the absence of the commis-
39 sioner shall exercise all the powers of the commissioner
40 and generally shall exercise such powers as are dele-
41 gated to him by the commissioner.

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

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

69 (e) In addition to the service of the deputy commis-
70 sioner hereinabove provided for, the commissioner shall
71 appoint an adequate number of competent persons to
72 serve as agents of the commissioner for the purpose of
73 keeping all necessary accounts and records required un-
74 der the provisions of this article; investigating the books,
75 accounts, records and other papers of retailers, distribu-
76 tors and brewers; investigating applicants for license and
77 the places of business of retailers, distributors and brew-
78 ers; procuring evidence with respect to violations of the
79 provisions of this article, and particularly for use at hear-
80 ings held by the commissioner and on proceedings in-
81 stituted in court for the purpose of revoking or suspend-
82 ing licenses hereunder; and such agents shall perform
83 such other duties as the commissioner may direct. Such
84 agents shall have the right to enter any licensed premises
85 in the state in the performance of their duties at any
86 hour of the day or night when beer is being sold or
87 consumed on such licensed premises. Refusal by any
88 licensee or by any employee of a licensee to permit such

89 agents to enter the licensed premises shall be an ad-
90 ditional cause for revocation or suspension of the license
91 of such licensee by the commissioner. The compensa-
92 tion of such deputy commissioner, employees and agents
93 shall be fixed by the commissioner.

94 Services rendered the state by clerks, sheriffs, com-
95 missioners in chancery and special commissioners desig-
96 nated by the court, and court reporters and stenographers
97 performing services for said commissioners and fees of
98 witnesses summoned on behalf of the state in proceedings
99 to revoke or suspend retailer's licenses, shall be treated
100 as a part of the expenses of administration and enforce-
101 ment, and such officers and said other persons shall be
102 paid the same fees and charges as would be chargeable
103 for like services performed for an individual; and the
104 compensation of such clerks, sheriffs and other persons,
105 shall be paid out of the amount allocated for the ex-
106 pense of administration and enforcement, after the
107 amount of such fees and other charges shall be certified
108 by the court to the auditor.

CHAPTER 187

(House Bill No. 57—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section two-a, relating to the imposition, collection and disposition of an additional excise tax on the sale of cigarettes.

[Passed February 1, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 17. Excise Tax on Sale of Cigarettes.

Section

2-a. Additional cigarette tax for payment of veterans' bonus bonds.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter eleven of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section two-a, to read as follows:

Section 2-a. *Additional Cigarette Tax for Payment of Veterans' Bonus Bonds.*—For the purpose of providing revenue for the payment of bonds issued under and by virtue of the veterans' bonus amendment to the constitution, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, an additional excise tax of one-half cent on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the veterans' bonus sinking fund, to be used solely for the payment of veterans' bonus bonds and the interest due thereon. Whenever in any fiscal year the amount of money accumulated in the veterans' bonus sinking fund shall be sufficient to pay at maturity all outstanding bonus bonds, together with the interest due or payable thereon, the additional tax imposed by this section shall expire at the end of such fiscal year.

CHAPTER 188

(Com. Sub. for Senate Bill No. 291—Originating in the Senate Committee on Finance.)

AN ACT to amend article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be desig-

nated section two-b, relating to the imposition, collection and disposition of an additional excise tax on the sale of cigarettes in order to provide additional revenue for the support of free schools.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor]

Article 17. Excise Tax on Sale of Cigarettes.

Section

2-b. Additional cigarette tax for support of schools.

Be it enacted by the Legislature of West Virginia:

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

Section 2-b. *Additional Cigarette Tax for Support of Schools.*—For the purpose of providing additional revenue for the support of free schools, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-one, in addition to the taxes imposed by sections two and two-a of this article an additional excise tax of one cent on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the general school fund, to be used solely for the support of free schools.

CHAPTER 189

(Senate Bill No. 181—By Mr. Bean)

AN ACT to amend and reenact sections one, four, six, nine, ten, eleven, nineteen and twenty, article seventeen, and the whole of article eighteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred fifty-six, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relative to a tax on cigarettes, levying and imposing a tax upon the sale of cigarettes to raise revenues, providing for the payment and collection of such tax and the administration thereof, levying a tax on the use, consumption or storage of cigarettes and prescribing penalties for the violation thereof.

[Passed March 10, 1951; in effect July 1, 1951. Approved by the Governor.]

Article

17. Excise Tax on Sale of Cigarettes.

18. Excise Tax on Use, Consumption or Storage of Cigarettes.

Be it enacted by the Legislature of West Virginia:

That sections one, four, six, nine, ten, eleven, nineteen and twenty, article seventeen, and the whole of article eighteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred fifty-six, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted, all to read as follows:

Article 17. Excise Tax on Sale of Cigarettes.

Section

1. Definitions.
4. How tax paid; stamps; how affixed and canceled; violations.
6. Tobacco license required.
9. Power of tax commissioner; rules and regulations; records of wholesalers and retailers; metering in lieu of stamping; agents for metering; levy to collect tax.
10. Form of stamps; custody; discounts; security for payments.
11. Sales by deputies; fees; reports of deputies.
19. Issuance of warrant to sheriff by attorney general or commissioner; priority of tax.
20. Revocation of licenses.

Section 1. *Definitions.*—As used in this article:

- 2 "Person" includes firms and corporations;
3 "Wholesale dealer" shall mean and include any person,
4 distributor or commissary servicing, supplying or selling
5 to affiliated or non-affiliated stores, who acquire cigarettes
6 for purposes of sale to retailers, or to other persons for
7 purposes of resale;
8 "Retail dealer" includes every person in this state,
9 other than a wholesale dealer, engaged in the business of
10 selling cigarettes irrespective of quantity or amount or
11 number of sales thereof;
12 "Sale" includes exchange, barter, gift, offer for sale
13 and distribution;
14 "Cigarette" includes any roll for smoking made wholly
15 or in any part of tobacco irrespective of size or shape
16 and whether or not such tobacco is flavored, adulterated
17 or mixed with any other ingredient, the wrapper or cover
18 of which is made of paper or any other material excepting
19 tobacco;
20 "Package" means the individual package, box or other
21 container in or from which retail sales of cigarettes are
22 normally made or intended to be made;
23 "Stamp" shall mean any cigarette stamps required un-
24 der this article, or any meter or ink impression author-
25 ized by the tax commissioner to serve as such stamp;
26 "Commissioner" means the state tax commissioner and
27 where the meaning of the context requires, all deputies,
28 and employees duly authorized by him.

- Sec. 4. *How Tax Paid; Stamps; How Affixed and Can-
2 celed; Violations.*—The tax hereby imposed shall be paid
3 by the purchase of stamps as provided in this article. No
4 stamp shall be in a denomination of less than one-half
5 cent. A stamp or stamps shall be affixed to or printed on
6 each package of an aggregate denomination of not less
7 than the amount of the tax upon the contents thereof.
8 The stamp or stamps, so affixed, shall be prima facie
9 evidence of payment of the tax imposed by this article.
10 Except as may be otherwise provided in the rules and
11 regulations prescribed by the commissioner under au-
12 thority of this article, and unless such stamps have been
13 previously affixed, they shall be so affixed by each whole-

14 sale dealer in this state, and canceled, by writing across
15 the face thereof the name of such wholesale dealer and
16 the date of cancellation, prior to the delivery of any cigarettes to any retail dealer in this state.

18 Each retail dealer, authorized to deal in unstamped
19 cigarettes, who receives, brings or causes to be brought
20 into this state unstamped cigarettes, shall immediately
21 upon receipt of such unstamped cigarettes at his place
22 of business, so affix such stamp to each package and shall
23 cancel the same by writing or stamping his name and the
24 date of cancellation across the face thereof, or as otherwise directed by regulation of the commissioner, or shall
25 immediately mark in ink on each unopened box, carton
26 or other container of such cigarettes the word "Received"
27 and the month, day and hour of such receipt and shall
28 affix his signature thereto, or as otherwise directed by
29 regulation of the commissioner. He shall in any event
30 open such box, carton or other container and immediately
31 so affix such stamps to each package therein, and
32 cancel the same in the manner herein designated, within
33 twenty-four hours after such receipt and prior to the sale
34 of such cigarettes.

36 Whenever any cigarettes are found in the place of
37 business of such retail dealer without the stamps so affixed and canceled or not so marked as having been
38 received within the preceding twenty-four hours, the
39 prima facie presumption shall arise that such cigarettes
40 are kept therein in violation of the provisions of this
41 article.
42

Sec. 6. *Tobacco License Required.*—No person shall
2 engage in the business of selling cigarettes at retail
3 within this state without having first secured the license
4 provided in section six, article twelve, chapter eleven of
5 this code or having taken an assignment of such license
6 in the manner permitted by law. Companies operating
7 club or dining cars or other cars upon which cigarettes
8 are sold shall comply with the requirements of this article
9 with respect to the imposition of cigarette tax and affixing stamps to packages in which the same are sold
10 in the state of West Virginia.
11

2 *Sec. 9. Power of Tax Commissioner; Rules and Regu-*
3 *lations; Records of Wholesalers and Retailers; Metering*
4 *in Lieu of Stamping; Agents for Metering; Levy to Collect*
5 *Tax.*—The tax commissioner shall have power and au-
6 thority to enforce and administer the provisions of this
7 article and article eighteen of this chapter. The tax
8 commissioner shall have authority to promulgate in ac-
9 cordance with the provisions of this article such rules
10 and regulations as he may deem necessary to carry out
11 its provisions, and may adopt different detailed regu-
12 lations applicable to diverse methods and conditions of
13 sale of cigarettes in this state, prescribing, in each class
14 of cases upon whom, as between the wholesale dealer
15 and the retail dealer, the primary duty of affixing stamps
16 shall rest and the manner in which stamps shall be af-
17 fixed. Each licensed dealer shall be furnished a copy of
18 such regulations upon request. Any such rule or regu-
19 lation so furnished, excusing a wholesale dealer from
20 affixing stamps under the circumstances of the particular
21 case, shall be a defense in the prosecution of such dealer
22 for violation of section sixteen of this article.

23 All books, papers, invoices and records of any whole-
24 sale or retail dealer in this state, whether or not re-
25 quired under the provisions of this article to be kept
26 by him, showing his sales, receipts and purchases of
27 cigarettes, shall at all times, during the usual business
28 hours of the day, be open for the inspection of the tax
29 commissioner, or his authorized agent, for such pur-
30 poses; and the tax commissioner or a deputy shall have
31 power to investigate and examine the stock of cigarettes
32 in and upon any premises where the same are placed,
33 stored or sold, for the purpose of determining whether
34 or not the provisions of this act are being obeyed.

35 The tax commissioner, if he shall determine that it is
36 practicable to stamp packages of cigarettes by impression
37 by means of a metering device, shall provide that such
38 metering device and its impression may be used in lieu
39 of the stamps otherwise required by law. The tax com-
40 missioner shall authorize any wholesale, or retail dealer,
41 purchasing unstamped cigarettes and holding the license
 herein required, to use any metering device approved

42 by the commissioner, such device to be sealed by the
43 commissioner or a deputy, or agent authorized by the
44 commissioner, before being used, and which device shall
45 be used only in accordance with the regulations pre-
46 scribed by the commissioner.

47 Any wholesale or retail dealer authorized by the tax
48 commissioner to affix stamps to packages of cigarettes by
49 means of a metering device shall file with the tax com-
50 missioner a bond in such amount as the tax commissioner
51 may designate, conditioned upon the payment of the tax
52 upon the cigarettes so stamped.

53 Wholesale and retail dealers licensed to use said de-
54 vice shall make a monthly return to the commissioner
55 and remit monthly the amounts of tax due the state:
56 *Provided, however,* That a wholesale or retail dealer
57 may elect to pay the tax in advance where a metering
58 device is used, in which event such dealer shall deliver
59 the metering device to the commissioner, or his agent
60 authorized for the purpose, who shall seal the meter in
61 accordance with the prepayment so made. The com-
62 missioner may designate and authorize any bank or
63 trust company with banking offices in any county of
64 this state, to act as his deputy or agent for the purpose
65 of performing his duties with respect to sealing of meter-
66 ing devices in such county, and may require bond, and
67 the action of any such deputy by its duly authorized of-
68 ficer or employees shall be as valid as though performed
69 by the commissioner.

70 The commissioner shall have power to make an assess-
71 ment, against any retail or wholesale dealer who fails
72 to return or make a false or erroneous return. The com-
73 missioner may collect such assessment by levy, action at
74 law, distraint or any other method of enforcing taxes
75 which may be provided by law and shall have the right
76 to file liens therefor in any county.

Sec. 10. *Form of Stamps; Custody; Discounts; Security*
2 *for Payments.*—The commissioner shall design, and pro-
3 cure stamps to be used as herein provided for, affixed
4 and attached to containers, packages or receptacle of
5 whatever kind that may be used for containing ciga-
6 rettes. In the preparing of said stamp or stamps the

7 same shall have printed or impressed thereon the words
8 "State of West Virginia—Cigarette Tax Stamp" and such
9 other words and figures as he may deem proper to show
10 the value and denomination of the stamp or stamps. He
11 shall also prescribe the form of impression to be placed
12 upon any package or container of cigarettes by any meter-
13 ing device. The state tax commissioner shall collect the
14 taxes provided for by this article.

15 Such stamps shall be kept in the custody of the state
16 tax commissioner or such deputies as he may designate to
17 sell the same. Such stamps shall be sold and accounted
18 for at the face value thereof except that the tax com-
19 missioner may authorize sale thereof, or sell to whole-
20 sale or retail dealers in this state, or to wholesalers out-
21 side of this state such stamps at a discount of four per
22 cent of the face value of such stamps, the same to be
23 allowed as a commission for affixing and canceling such
24 stamps; and excepting further that the tax commissioner
25 may, by like regulation so certified, authorize the de-
26 livery of stamps to wholesale or retail dealers in this
27 state, or to wholesale dealers outside of this state on
28 credit, allowing the same discount as when sold for
29 cash, if when the purchaser shall file with the tax com-
30 missioner a bond not exceeding forty thousand dollars,
31 payable to the state of West Virginia, in such form and
32 amount as the commissioner shall prescribe, and with
33 surety or sureties to the satisfaction of the commissioner,
34 conditioned as he may require, to guarantee payment
35 within thirty days for stamps so delivered within such
36 period of time and by making of such reports and settle-
37 ment as the commissioner may require. In the event a
38 wholesale dealer in this state has aggregate purchases
39 during thirty-day credit periods in excess of forty thou-
40 sand dollars, such dealer may file with the commissioner
41 a statement of excess credit requirement, together with a
42 financial statement duly verified by a certified public
43 accountant or public accountant. Should the commis-
44 sioner determine that the maximum bond together with
45 such dealer's known assets are sufficient to insure pay-
46 ment to the state for stamps purchased, the commissioner
47 shall authorize the delivery of stamps to such dealer on

48 credit. The commissioner may, by further regulations,
49 provide for canceling, renewing or increasing such bond
50 or for the substitution of the surety thereon. The com-
51 missioner shall redeem any unused or mutilated, but
52 identifiable stamps, that any licensed wholesale dealer
53 or retail dealer may present for redemption, on written
54 verified requests made by the purchaser, his adminis-
55 trators, executors, successors, or assigns, and refund
56 therefor, ninety-five per cent of the face value of said
57 stamps, less any discounts allowed on the purchase of
58 said stamps. The commissioner shall pay on a like basis
59 for stamps destroyed by fire upon presentation of proof
60 of such loss satisfactory to him. Such payments shall for
61 purposes hereof be deemed to be refunds of taxes im-
62 properly collected and shall be allowed and paid as part
63 of the cost of administration of this article as in this article
64 provided.

Sec. 11. *Sales by Deputies; Fees; Reports of Deputies.*

2 —The tax commissioner may appoint any sheriff, or any
3 bank or trust company authorized to do business in, and
4 doing business in this state, as his deputy for the purpose
5 of selling such stamps, excepting that no such deputy
6 shall be thereby authorized to sell the same at a discount
7 or on credit, and excepting, further, that provisions hereof
8 relating to sale of stamps shall not prevent any bank or
9 trust company from acting as the commissioner's deputy
10 for purposes of checking and sealing meters under other
11 provisions of this article. The tax commissioner is hereby
12 authorized to allow such deputy, authorized to sell stamps
13 hereunder, a fee of one-eighth of one per cent of the face
14 value of all stamps sold by such deputy and charge the
15 same as a part of the costs of administration of this article.
16 It shall be the duty of any such deputy to act as such dep-
17 uty and all the powers and duties thereby imposed upon
18 any such sheriff shall be deemed and considered to be
19 within the scope of his office as county treasurer for all
20 purposes. The state tax commissioner shall be responsible
21 for the delivery of stamps to any county sheriff or other
22 deputy so appointed, and may prescribe such regulations
23 and forms of receipts and reports as he may deem neces-
24 sary and advisable for the transaction of the business of

25 selling such stamps. Each such deputy shall remit
26 monthly or oftener as requested, to the tax commissioner
27 all moneys arising from the sale of such stamps by him,
28 together with a report showing the names of the pur-
29 chasers and the number of each denomination and the
30 aggregate face value sold by each such deputy. Commis-
31 sions or allowances retained or paid to sheriffs shall be
32 paid by such sheriffs into the general fund of his county.
33 The tax commissioner may sell stamps at his office.

Sec. 19. *Issuance of Warrant to Sheriff by Attorney
2 General or Commissioner; Priority of Tax.*—In addition
3 to all other remedies for the collection of any taxes or fees
4 due under the provisions of law, the attorney general or
5 the tax commissioner may issue a warrant directed to the
6 sheriff of any county of the state commanding said sher-
7 iff to levy upon and sell the goods and chattels of such
8 dealer, without exemption, found within his jurisdiction,
9 for the payment of the amount of such delinquency with
10 the added penalties and interest and the cost of executing
11 the warrant and to return such warrant to the tax com-
12 missioner or attorney general and to pay him the money
13 collected by virtue thereof within the time to be therein
14 specified which shall not be less than twenty nor more
15 than sixty days from the date of the warrant. The sheriff
16 to whom any such warrant shall be directed shall proceed
17 upon the same in all respects and with like effect and in
18 the same manner as prescribed by law in respect to exe-
19 cutions issued against goods and chattels upon judgments
20 by a court of record, and shall be entitled to the same fees
21 for his services in executing the warrant to be collected
22 in the same manner.

23 The claim arising by reason of delinquent cigarette
24 taxes shall be a preferred claim against all of the assets
25 of the dealer, real and personal, with priority over all
26 taxes except real property taxes and other recorded state
27 tax claims docketed according to law.

Sec. 20. *Revocation of Licenses.*—The commissioner
2 shall have the right to revoke any license issued under
3 the provisions of this article and any tobacco license
4 issued under article twelve, chapter eleven of this code,

5 for violation by licensee thereunder of the provisions of
6 this article, article eighteen of this chapter, and the pro-
7 visions of any other statute regulating the business of
8 wholesale and retail dealers of cigarettes. Persons whose
9 licenses are revoked hereunder shall have the same rights
10 of appeal provided in sections forty-seven and forty-eight
11 of article twelve of this chapter.

Article 18. Excise Tax on Use, Consumption or Storage of Cigarettes.

Section

1. Definitions.
2. Levy of Tax on Cigarettes.
3. Returns; Remittance.
4. Assessment by Commissioner.
5. Penalties for failure to make and file return.
6. Disposition of taxes collected.
7. Separability of provisions of act.

Section 1. *Definitions.*—As used in this article:

2 “Person” includes individuals, firms, partnerships, as-
3 sociation, joint stock companies and corporations, and
4 combinations or individuals of whatsoever form and
5 character.

6 “Commissioner” means the tax commissioner of West
7 Virginia.

8 “Storage” means and includes any keeping or retention
9 of cigarettes for any period of time in this state.

10 “Use” means and includes the exercise of any right or
11 power incidental to the ownership of cigarettes.

12 “Consumer” means any person who shall have title to or
13 possession of cigarettes in storage, for use or consumption
14 in this state.

15 Other terms defined in section one, article seventeen
16 of this chapter shall have the same meaning when used
17 in this article insofar as the same are applicable hereto.

Sec. 2. *Levy of Tax on Cigarettes.*—For the purpose
2 of providing revenue for the general fund of this state an
3 excise tax is hereby levied on the use, consumption or
4 storage of cigarettes by consumers in this state at the rate
5 of two-cents on each ten or fractional part thereof:
6 *Provided, however,* That the tax shall not apply if the tax
7 levied in article seventeen of this chapter has been paid.

Sec. 3. *Returns; Remittance.*—Every person who has

2 acquired cigarettes for use, storage or consumption sub-
3 ject to the tax herein levied shall, on or before the fif-
4 teenth day of the month following receipt of such cigar-
5 ettes, make and file with the commissioner a return
6 showing the amount of cigarettes acquired, together with
7 remittance of the tax thereon.

Sec. 4. *Assessment by Commissioner.*—In case any
2 person required to pay the taxes levied by this article,
3 fails to make remittance as herein required, the commis-
4 sioner shall have the power to issue an assessment against
5 such person, based on any information in his possession
6 or which may come to his possession or knowledge.

7 All of the provisions of sections nine and nineteen of
8 article seventeen of this chapter, and other provisions of
9 law, relating to assessments, distraints, levies, findings or
10 appeals from assessments or findings, and the effect of
11 assessments or findings before or after hearing, and before
12 or after filing same in the office of the clerk of the county
13 court, and all provisions of such sections relating to the
14 procedure, authority, duties, liabilities, powers and privi-
15 leges of the person assessed, the commissioner, the clerk
16 of the county court and all other public officials shall be
17 applicable to assessments made pursuant to the provisions
18 of this article.

Sec. 5. *Penalties for Failure to Make and File Return.*
2 —If any person required by this act to make and file a re-
3 turn with the commissioner, neglects or refuses to make
4 such return, or neglects or refuses to pay the tax levied
5 by this article, or neglects or refuses to pay any lawful
6 assessment issued by the commissioner he shall be guilty
7 of a misdemeanor and upon conviction thereof shall be
8 fined not less than twenty-five dollars nor more than one
9 hundred dollars.

Sec. 6. *Disposition of Taxes Collected.*—The moneys
2 received as taxes under the provisions of this article, shall
3 be credited and held for the same purposes as taxes col-
4 lected under article seventeen of this chapter.

Sec. 7. *Separability of Provision of Act.*—The various
2 provisions of the several sections of article seventeen and

3 article eighteen, contained in this act, shall be deemed
4 to be separable insofar as they or their meaning is not
5 inseparably connected, and if any provisions of this act
6 shall be held unconstitutional, such holding shall not
7 affect any of the other provisions of this act, and said
8 articles seventeen and eighteen, not inseparably con-
9 nected in meaning and effect with such part so held un-
10 constitutional.

CHAPTER 190

(House Bill No. 268—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article nineteen, relating to the imposition and collection of an excise tax upon the sale, use, handling or distribution of bottled soft drinks and soft drink syrups, and prescribing penalties for the violation thereof.

[Passed March 9, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 19. Soft Drinks Tax.

Section

1. Definitions.
2. Excise tax on bottled soft drinks and syrups; disposition thereof.
3. Soft drink permits required.
4. Affixing of tax stamps or tax crowns.
5. Purchase of tax stamps or tax crowns; discounts and commissions; provisions for credit.
6. Rules and regulations.
7. Lien for delinquent taxes.
8. Amount allowed for administration.
9. Altering, counterfeiting or reusing tax stamps or tax crowns; penalty.
10. Penalties.
11. Separability.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definitions*.—As used in this article:

2 (1) "Bottled soft drinks" shall include any and all
3 nonalcoholic beverages, whether carbonated or not, such
4 as soda water, ginger ale, coca cola, lime cola, pepsi cola,
5 doctor pepper, root beer, carbonated water, orangeade,
6 lemonade, fruit juice when any plain or carbonated water,
7 flavoring or syrup is added, or any and all preparations
8 commonly referred to as "soft drinks" of whatever kind,
9 which are closed and sealed in glass, paper, or any other
10 type of container or bottle, whether manufactured with
11 or without the use of any syrup. The term "bottled soft
12 drinks" shall not include fluid milk to which no flavor-
13 ing has been added, or natural undiluted fruit juice or
14 vegetable juice.

15 (2) "Soft drink syrups" shall include the compound
16 mixture or the basic ingredients, whether dry or liquid,
17 practically and commercially usable in making, mixing
18 or compounding soft drinks at soda fountains by the
19 mixing thereof with carbonated or plain water, ice, fruit,
20 milk or any other product suitable to make a soft drink,
21 among such syrups being such products as coca cola
22 syrup, chero cola syrup, pepsi cola syrup, doctor pepper
23 syrup, root beer syrup, nu-grape syrup, lemon syrup,
24 vanilla syrup, chocolate syrup, cherry smash syrup, rock
25 candy syrup, simple syrup, among such syrups being all
26 these or any other prepared syrups sold or used for the
27 purpose of mixing soft drinks at soda fountains.

28 (3) "Person" shall mean and include an individual,
29 firm, partnership, association or corporation.

30 (4) "Wholesale dealer" includes only those persons
31 who sell any bottled soft drink or soft drink syrup to
32 retail dealers for the purpose of resale.

33 (5) "Retail dealer" includes every person other than
34 a wholesale dealer selling, serving or delivering or other-
35 wise dispensing any bottled soft drink or any drink made
36 from soft drink syrup.

37 (6) "Distributor" shall mean any person who manu-
38 factures, bottles, produces or purchases for sale to retail
39 dealers any bottled soft drink or soft drink syrup.

40 (7) "Commissioner" means the state tax commissioner,

41 and where the meaning of the context requires, all depu-
42 ties and employees duly authorized by him.

Sec. 2. *Excise Tax on Bottled Soft Drinks and Syrups;*
2 *Disposition Thereof.*—For the purpose of providing rev-
3 enue for the construction, maintenance and operation of
4 a four-year school of medicine, dentistry and nursing of
5 West Virginia university, an excise tax is hereby levied
6 and imposed on and after midnight of the last day of
7 June, one thousand nine hundred fifty-one, upon the sale,
8 use, handling or distribution of all bottled soft drinks and
9 all soft drink syrups, whether manufactured within or
10 without this state, as follows:

11 (1) On each bottled soft drink, a tax of one cent on
12 each sixteen fluid ounces, or fraction thereof, contained
13 therein.

14 (2) On each gallon of soft drink syrup, a tax of eighty
15 cents, and in like ratio on each part gallon thereof, and
16 on each ounce of dry mixture used for making soft drinks,
17 a tax proportionate to that levied on soft drink syrup, in
18 a ratio to be determined by the commissioner.

19 The person manufacturing or producing within this
20 state any bottled soft drink or soft drink syrup for sale
21 within this state shall pay the excise tax hereby imposed,
22 and the distributor, wholesale dealer or retail dealer or
23 any other person who is the original consignee of any
24 bottled soft drink or soft drink syrup manufactured
25 or produced outside this state, or who brings such drinks
26 or syrups into this state, shall pay such excise tax. The
27 excise tax hereby imposed shall not be collected more
28 than once in respect to any bottled soft drink or soft
29 drink syrup manufactured, sold, used or distributed in
30 this state.

31 All revenue collected by the commissioner under the
32 provisions of this article, less such costs of administration
33 as are hereinafter provided for, shall be paid by him into
34 a special medical school fund, which is hereby created
35 in the state treasury, to be used solely for the construc-
36 tion, maintenance and operation of a four-year school of
37 medicine, dentistry and nursing, as otherwise provided by
38 law.

Sec. 3. *Soft Drink Permits Required.*—On and after the first day of July, one thousand nine hundred fifty-one, it shall be unlawful for any person to manufacture, bottle, import, distribute or sell in this state any bottled soft drink or any soft drink syrup without having first obtained from the commissioner a soft drink permit as provided in this section. Each wholesale dealer and each distributor shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of ten dollars. Each wholesale dealer and each distributor who sells or distributes any such drink or syrup within the state, but who does not own or operate any place of business within the state, shall likewise obtain each year from the commissioner a soft drink permit and shall pay therefor a fee of ten dollars. Each retail dealer shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of one dollar. The commissioner may suspend or, after a hearing, revoke any soft drink permit whenever the holder thereof has failed to comply with any of the provisions of this article or any rules or regulations made and promulgated by him as provided herein.

Sec. 4. *Affixing of Tax Stamps or Tax Crowns.*—The payment of the taxes herein provided shall be evidenced by the affixing of soft drink tax stamps or tax crowns to the original containers or bottles in which any bottled soft drink or syrup is placed, received, stored or handled. Such stamps or crowns, of the appropriate denomination, shall be affixed to each container of syrup and to each bottled soft drink by the person who under the provisions of this article is first required to pay the tax thereon, within twenty-four hours after such person has such bottled soft drink or syrup in his possession for the first time. The provisions of this paragraph shall not apply to syrup used by bottlers in the manufacture of bottled soft drinks, or to bottled soft drinks or syrups which are transported through this state and which are not sold, delivered, used or stored herein, if transported in accord-

17 ance with such rules and regulations as may be promul-
18 gated by the commissioner, or to any bottled drink or
19 syrup which is manufactured in this state and sold to a
20 purchaser outside this state.

21 Except as otherwise provided in this section, it shall
22 be unlawful for any person to sell, use, handle or dis-
23 tribute any bottled soft drink or soft drink syrup to which
24 the tax stamps or tax crowns required by this section are
25 not affixed, and any person who shall violate this pro-
26 vision shall be guilty of a misdemeanor and, upon con-
27 viction thereof, shall be punished by a fine of not less
28 than one hundred dollars nor more than five hundred
29 dollars, or by imprisonment for not more than six months,
30 or by both such fine and imprisonment.

Sec. 5. *Purchase of Tax Stamps or Tax Crowns; Dis-*
2 *counts and Commissions; Provisions for Credit.*—The
3 commissioner is hereby authorized to promulgate rules
4 and regulations governing the design, purchase, sale and
5 distribution of tax stamps and tax crowns required by
6 this article. Manufacturers or distributors of crowns may
7 be required to furnish bond to insure faithful compliance
8 with such regulations. Any person desiring to purchase
9 such crowns shall obtain from the commissioner an auth-
10 orization to do so, which shall specify the number of
11 crowns to be purchased, and upon shipment thereof the
12 manufacturer shall transmit to the commissioner a copy
13 of the invoice of such shipment. The commissioner shall
14 not authorize the purchase of crowns by any person who
15 is in default in the payment of any tax required by this
16 article.

17 The commissioner shall sell the stamps required by this
18 article, or may authorize any sheriff, or any bank or
19 trust company in this state, to sell such stamps as his
20 deputy, and may allow as a commission a fee of one-
21 half of one per cent of the face value of all stamps sold
22 by such deputy. In the sale of such stamps the commis-
23 sioner shall allow the following discounts: on a sale of
24 less than twenty-five dollars, no discount; on a sale of
25 twenty-five dollars or over and less than fifty dollars,
26 a discount of five per cent; and on a sale of fifty dollars
27 or more, a discount of ten per cent.

28 In the case of stamps, the tax imposed by this article
29 shall be paid in advance at the time the stamps are pur-
30 chased. In the case of tax crowns, the tax shall be paid in
31 advance at the time the tax commissioner authorizes the
32 purchase of such tax crowns, unless the purchaser applies
33 for and obtains credit as provided in the following para-
34 graph.

35 Whenever any person applies for an authorization to
36 purchase tax crowns he may apply for an extension of
37 credit on the tax due with respect to such crowns, and if
38 he files a bond in the form prescribed by the commis-
39 sioner, with satisfactory corporate surety, in an amount
40 not less than twenty-five per cent more than the tax due
41 with respect to the tax crowns to be purchased, the com-
42 missioner shall issue the necessary authorization. Any
43 person who obtains such credit shall, on or before the
44 tenth day of each month, file with the commissioner on
45 forms prescribed by him a return stating the number of
46 tax crowns used by such person during the preceding
47 month, and he shall at the same time pay to the com-
48 missioner the tax due on the crowns so used.

49 The commissioner shall allow to each purchaser of
50 tax crowns, whether for cash or credit, a discount of
51 twelve and one-half per cent of the tax value of such
52 tax crowns. Such discount, and the discount allowed
53 on the sale of tax stamps, shall be in lieu of the allow-
54 ance of any claim for refund by reason of the breakage
55 or destruction of containers stamped or crowned as pro-
56 vided in this article, or the loss or destruction of tax
57 stamps or tax crowns.

2 Sec. 6. *Rules and Regulations.*—The commissioner is
3 hereby authorized to make and promulgate such reason-
4 able rules and regulations as may be necessary to admin-
5 ister the provisions of this article and to insure the col-
6 lection of the taxes imposed hereby. Every person sub-
7 ject to the provisions of this article shall make such
8 reports and keep such records as may be required by
9 the rules and regulations of the commissioner, and shall
10 permit him to inspect such records and the stock and
supplies on hand at any time.

Sec. 7. *Lien for Delinquent Taxes.*—The claims of the
2 state for any delinquent taxes due under the provisions
3 of this article shall be a preferred claim against all the
4 property, real and personal, belonging to the delinquent
5 taxpayer, with priority over all taxes except real prop-
6 erty taxes, and other recorded state tax claims docketed
7 according to law.

Sec. 8. *Amount Allowed for Administration.*—The com-
2 missioner, in the administration and enforcement of this
3 article, shall be allowed to expend out of the revenue
4 collected hereunder, a sum not to exceed two and one-
5 half per cent of the total revenue collected.

Sec. 9. *Altering, Counterfeiting or Reusing Tax Stamps
2 or Tax Crowns; Penalty.*—Any person who falsely or
3 fraudently makes, forges, alters, or counterfeits any tax
4 stamp or tax crown prescribed by the commissioner
5 under the provisions of this article, or who knowingly
6 or willfully utters, passes or tenders as true any such
7 false, altered, forged or counterfeited stamp or crown,
8 or who uses more than once any stamp or crown for the
9 purpose of evading the tax imposed by this article, shall
10 be guilty of a felony and, upon conviction thereof, shall
11 be punished by imprisonment in the penitentiary for
12 not less than one year nor more than five years.

Sec. 10. *Penalties.*—Any person who violates any of the
2 provisions of this article or any lawful rule or regulation
3 promulgated by the commissioner under authority of
4 this article, for the violation of which no other penalty is
5 provided by law, shall be guilty of a misdemeanor and,
6 upon conviction thereof, shall be punished by a fine of not
7 less than twenty-five dollars nor more than one hundred
8 dollars.

Sec. 11. *Separability.*—The provisions of the several
2 sections of this article shall be deemed to be separable
3 insofar as they or their meaning is not inseparably con-
4 nected, and if any provisions of this article shall be held
5 unconstitutional, such holding shall not affect any of the
6 other provisions thereof.

CHAPTER 191

(Senate Bill No. 24—By Mr. Love)

AN ACT to amend and reenact section twenty-four, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the service of notices in connection with tax deeds made by county clerks.

[Passed February 27, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 3. Sale of Land for Taxes.

Section

24. Service of notice.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article three, 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 24. *Service of Notice.*—As soon as the clerk
2 has prepared the notice provided for in the preceding
3 section, he shall cause it to be served upon the following
4 persons: (1) The person in whose name the real estate
5 was returned delinquent and sold, or, in case of his death,
6 his heir or devisee and his personal representative, if such
7 there be; (2) any grantee of such person, or his heir or
8 devisee and his personal representative, if such there be,
9 if a conveyance of such real estate is recorded or filed for
10 record in the office of the clerk; (3) any person having a
11 lien upon such real estate disclosed by any paper recorded
12 in the clerk's office; and (4) any other person having such
13 an interest in the property as would entitle him to re-
14 deem, if the existence of such interest appears of record.
15 The notice shall be personally served upon all such
16 persons residing or found in the state in the manner
17 provided for serving process commencing a suit, on or
18 before the first day of April following the request for
19 such notice. If any person entitled to notice is a non-
20 resident of the state or if his residence is unknown to the

21 clerk and cannot by due diligence be discovered, the
22 notice shall be served by publication once a week for
23 three successive weeks in some newspaper published in
24 the county in which such real estate is located, or if no
25 newspaper is published in the county, then in some news-
26 paper of general circulation in the county. If service by
27 publication is necessary, publication shall be commenced
28 within two weeks after April first, and a copy of the
29 notice shall at the same time be sent by registered mail,
30 return receipt requested, to the last known address of
31 the person served. The return of service of such notice
32 and the affidavit of publication, if any, shall be in the
33 manner provided for process generally and shall be filed
34 and preserved by the clerk in his office, together with
35 any return receipts for notices sent by registered mail.

CHAPTER 192

(Senate Bill No. 177—By Mr. Martin, by request)

AN ACT to amend and reenact section eighteen, 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 February 16, 1951: in effect from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Funds.

Section

18. Application for permission to redeem.

Be it enacted by the Legislature of West Virginia:

That section eighteen, 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 18. *Application for Permission to Redeem.*—

2 The former owner of any forfeited or delinquent land,

3 or any other person who was entitled to redeem such
4 land under the provisions of section eight, article three
5 of this chapter, may file his petition in such suit with the
6 circuit court or the judge thereof in vacation, at any time
7 before confirmation of sale thereof requesting permission
8 to redeem such land to the extent that title thereto re-
9 mains in the state. The court or the judge thereof in
10 vacation may by proper decree, permit the petitioner
11 to redeem the land upon payment to the sheriff of the
12 total amount of taxes, interest and charges properly due
13 or chargeable thereon on the date of redemption and all
14 court costs taxable in respect thereto under the provisions
15 of this article, which amount shall be fixed by the court
16 or the judge thereof in vacation, in the order.

17 Upon payment being made, the court or the judge
18 thereof in vacation, shall enter a decree declaring the
19 redemption of such land by the petitioner, so far only
20 as the title thereto remains in the state, and dismissing
21 the suit in respect thereto. If redemption was allowed
22 after sale, the decree shall also direct the sheriff to re-
23 turn the purchase money to the purchaser. Such de-
24 cree shall operate as a release of all the right, title and
25 interest of the state in and to such land, but shall in no
26 wise affect or impair any right, title or interest which
27 any other person may have therein.

28 Any redemption, which may have been heretofore had
29 by a former owner of real estate, pursuant to permission,
30 granted such former owner by a vacation order, in any
31 such suit, is hereby declared valid.

CHAPTER 193

(Senate Bill No. 72—By Mr. Love)

AN ACT to amend and reenact section five, article two, and
section five, article four, chapter twenty-one-a of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, relating to the compensation of the director of
employment security and members of the board.

[Passed March 8, 1951: in effect from passage. Approved by the Governor.]

Article

2. The Director of Employment Security.
4. Board of Review.

Be it enacted by the Legislature of West Virginia:

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

Article 2. The Director of Employment Security.

Section

5. Compensation.

Section 5. *Compensation.*—The director shall receive
2 an annual salary of seven thousand dollars, and the
3 necessary traveling expenses incident to the performance
4 of his duties. Requisition for traveling expenses shall
5 be accompanied by a sworn itemized statement which
6 shall be filed with the auditor and preserved as a pub-
7 lic record.

Article 4. Board of Review.

Section

5. Compensation.

Section 5. *Compensation.*—Each member of the board
2 shall receive an annual salary of five thousand five
3 hundred dollars and the necessary traveling expenses
4 incurred in the performance of his duties.

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

9 The salaries and the expenses of the members shall be
10 paid from the administration fund.

CHAPTER 194

(Senate Bill No. 314—By Mr. Traubert)

AN ACT to amend article ten, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one,

as amended, by adding thereto a new section to be designated section eighteen, relating to unemployment compensation.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the Governor.]

Article 10. General Provisions.

Section

18. When contributions and benefits to cease.

Be it enacted by the Legislature of West Virginia:

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

Section 18. When Contributions and Benefits to Cease.

2 —Whenever legislation enacted by the Congress of the
3 United States providing for a federal pay roll tax against
4 which the contribution required by this chapter may be
5 credited, is repealed, amended, interpreted, affected, or
6 otherwise changed in such manner that no portions of the
7 contributions required by this chapter may be thus cred-
8 ited, then upon the date of such change the provisions of
9 this chapter requiring contributions and providing for
10 payments of benefits shall cease to be operative. If there-
11 after such credit be allowed, the terms of this chapter
12 shall as of the date of such allowance of credit, again be-
13 come operative and collections of contributions and pay-
14 ment of benefits shall be resumed.

CHAPTER 195

(Senate Bill No. 171—By Mr. Bean)

AN ACT to amend and reenact section five, article one, chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation

of director, deputies, assistants and employees, honorarium of council members, traveling expenses, and meetings of council of the department of veterans' affairs.

[Passed March 8, 1951; in effect July 1, 1951. Approved by the Governor.]

Article 1. Department of Veterans' Affairs.

Section

5. Compensation of director, deputies, assistants and employees; honorarium of council members; traveling expenses; meetings of council.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Compensation of Director, Deputies, Assistants and Employees; Honorarium of Council Members; Traveling Expenses; Meetings of Council.*—The director shall receive a salary of seven thousand dollars per annum, payable in monthly installments, and, in addition, the necessary traveling expenses incident to the performance of his duties. The salaries of the deputy directors, assistants and employees shall be fixed by the veterans' council. The members of the veterans' council shall receive no salary, but each member shall receive an honorarium of ten dollars for each day actually in attendance at a meeting and his actual expenses and traveling expenses incurred in the performance of his duties under this act. The requisition for such expenses and traveling expenses shall be accompanied by a sworn and itemized statement, which shall be filed with the auditor and permanently preserved as a public record. The veterans' council shall hold its initial meeting on the call of the governor, and thereafter shall meet on the call of its chairman, except as otherwise provided. With the exception of the first three meetings of the veterans' council, none of which shall be of a duration longer than two weeks each, for organizational purposes, the veterans' council shall meet not more than once every two months at such times as may be determined by and upon the call

26 of the chairman for a period of not more than two days,
27 unless there should be an emergency requiring a special
28 meeting or for a longer period and so declared and called
29 by the governor or by the chairman with the approval
30 of the governor. A majority of its members of the vet-
31 erans' council shall constitute a quorum for the conduct
32 of official business.

CHAPTER 196

(House Bill No. 55—By Mr. Speaker, Mr. Flannery)

AN ACT authorizing the issuance and sale of ninety million dollars of bonds of the state of West Virginia to raise money for the purpose of paying a bonus to veterans under and by virtue of the "Veterans' Ninety Million Dollars Bonus Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred fifty, providing for the disposition and expenditure of the proceeds of the sale thereof, and providing for the payment of such bonds and for the rights and security of the holders thereof.

[Passed February 6, 1951: in effect from passage. Approved by the Governor.]

Veterans' Bonus Bonds.

Section

1. Veterans' bonus 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. Veterans' bonus sinking fund for payment of bonds and interest; investment thereof.
7. Covenants of state.
8. Sale by governor; minimum price.
9. Proceeds paid into veterans' bonus fund; expenditure.
10. Plates property of state.
11. Treasurer to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. *Veterans' Bonus Bonds; Amount Thereof*

2 *and Authority to Issue.*—Bonds of the state of West Vir-
3 ginia of the par value of ninety million dollars are hereby
4 authorized to be issued and sold for the purpose of rais-
5 ing funds for the payment of a cash bonus to veterans,
6 including the costs of administration necessarily incident
7 thereto, under and by virtue of the "Veterans' Ninety
8 Million Dollars Bonus Amendment" to the constitution
9 adopted at the general election held in November, one
10 thousand nine hundred fifty. Such bonds may be issued
11 by the governor in such amounts, in coupon or regis-
12 tered form, in such denominations, at such times and
13 bearing such date or dates as the governor may deter-
14 mine, and shall become due and payable serially begin-
15 ning one year and ending not more than twenty years
16 from the date thereof. The amount of such bonds matur-
17 ing in each year shall be so arranged by the governor
18 that the aggregate amount of principal of and interest
19 on such bonds maturing and becoming due in each year
20 shall be approximately equal. A variation of not more
21 than three per cent in such aggregate amounts of prin-
22 cipal and interest maturing and becoming due in each
23 year shall be considered a proper compliance with such
24 requirement. All of such bonds maturing more than ten
25 years after the date of issuance thereof shall be redeem-
26 able prior to maturity, at the option of the state of West
27 Virginia, at such time or times, at such premium or prem-
28 iums, and upon such other conditions as the governor
29 shall determine and prescribe in the notice of sale thereof.

Sec. 2. *Transfer, Fee; Registration, Fee; Where Pay-
2 able; Interest Rate; Tax Exempt.*—The auditor and the
3 treasurer are hereby authorized to arrange for the trans-
4 fer of registered bonds, and for each such transfer a fee
5 of fifty cents shall be charged by and paid to the state of
6 West Virginia, to the credit of the veterans' bonus sink-
7 ing fund. Bonds taken in exchange shall be canceled by
8 the auditor and treasurer and be carefully preserved by
9 the treasurer. The treasurer shall make provisions for
10 registering "payable to bearer" bonds, and for each bond
11 registered a fee of fifty cents shall likewise be charged by
12 and paid to the state of West Virginia, to the credit of the

13 sinking fund. All of such bonds shall be payable at the
14 office of the treasurer of the state of West Virginia, or,
15 at the option of the holder, at some bank in the city of
16 New York to be designated by the governor. The bonds
17 shall bear interest payable semi-annually, on the first
18 day of _____ and the first day of _____, of each
19 year, to bearer, at the office of the treasurer of the state
20 of West Virginia at the capitol of the state, or at the bank
21 designated by the governor, upon presentation and sur-
22 render of interest coupons then due, in the case of coupon
23 bonds. In the case of registered bonds the treasurer of
24 the state of West Virginia shall issue his check for the
25 interest then due on the first day of _____ and the first
26 day of _____, of each year, and mail it to the registered
27 owner at his address as shown by the record of regis-
28 tration. Both the principal and interest of the bonds shall
29 be payable in lawful money of the United States of
30 America and the bonds shall be exempt from taxation
31 by the state of West Virginia, or by any county, district,
32 or municipality thereof, which facts shall appear on the
33 face of the bonds as part of the contract with the holder
34 thereof.

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

7 VETERANS' BONUS

8 COUPON BOND

9 (Or registered bond, as the case may be)

10 OF THE

11 STATE OF WEST VIRGINIA

12 \$_____ SERIES_____ No._____

13 The state of West Virginia, under and by virtue of au-
14 thority of an act of the Legislature passed at the regular
15 session of one thousand nine hundred fifty-one, on the
16 _____ day of _____, one thousand nine hundred fifty-
17 one, and approved by the governor on the _____ day of
18 _____, one thousand nine hundred fifty-one, which is

19 hereby made a part hereof as fully as if set forth at
20 length herein, acknowledges itself to be indebted to, and
21 hereby promises to pay to the bearer hereof (in the case
22 of a coupon bond) or to _____ or assigns (the
23 owner of record, in case of a registered bond) on the
24 _____ day of _____, 19____, in lawful money of the
25 United States of America at the office of the treasurer
26 of the state of West Virginia at the capitol thereof, or at
27 the option of the holder at _____ bank in the city
28 of New York, the sum of _____ dollars, with in-
29 terest thereon at _____ per centum per annum from
30 date, payable semi-annually in like lawful money of the
31 United States of America at the treasurer's office or bank
32 aforesaid, on the first day of _____ and the first day
33 of _____ of each year, (and in the case of a
34 coupon bond) according to the tenor of the annexed
35 coupons, bearing the engraved facsimile signature of the
36 treasurer of the state of West Virginia, upon surrender
37 of such coupons. This bond (in the case of a coupon bond)
38 may be exchanged for a registered bond of like tenor
39 upon application to the treasurer of the state of West
40 Virginia.

41 This bond is hereby made exempt from any taxation
42 by the state of West Virginia, or by any county, district,
43 or municipal corporation thereof.

44 In testimony whereof, witness the signature of the
45 treasurer of the state of West Virginia, and the counter-
46 signature of the auditor of the state, hereto, affixed ac-
47 cording to law, dated the _____ day of _____, one thou-
48 sand nine hundred _____, and the seal of the state
49 of West Virginia.

50 (Seal)

51 _____
52 Treasurer of the State of West Virginia
53 Countersigned:

54 _____
55 Auditor of the State of West Virginia

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

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

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

12

13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his engraved facsimile signature and the coupons
16 shall be numbered in the order of their maturity, from
17 number one consecutively. The bonds and coupons may
18 be signed by the present treasurer and auditor, or by
19 any of their respective successors in office, and bonds
20 signed by the persons now in office may be sold by the
21 governor or his successor in office without being signed
22 by the successor in office of the present treasurer or au-
23 ditor.

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

Sec. 6. *Veterans' Bonus Sinking Fund for Payment of*
2 *Bonds and Interest; Investment Thereof.*—There is here-
3 by created a veterans' bonus sinking fund. Into such fund
4 there shall be paid all moneys received from all taxes or
5 charges made applicable by law to the payment of such
6 bonds or the interest thereon, from transfer fees as here-
7 in provided, and from any other source which is made
8 liable by law for the payment of the principal of such
9 bonds or the interest thereon.

10 All such funds shall be kept by the treasurer in a sep-
11 arate account, under the designation aforesaid, and all

12 money belonging to the fund shall be deposited in the
13 state treasury to the credit thereof.

14 Such fund shall be applied by the treasurer of the state,
15 first to the payment of the principal and semi-annual in-
16 terest on such bonds as they shall become due as herein
17 provided. The remainder of the fund shall be turned over
18 by the state treasurer to the state sinking fund commis-
19 sion, whose duty it shall be to invest the same in bonds
20 of the government of the United States, bonds of the state
21 of West Virginia, or any political subdivision thereof:
22 *Provided, however,* That bonds so purchased by the state
23 sinking fund commission shall mature so as to provide
24 sufficient money to pay off all bonds herein provided to
25 be issued as they may become due. The money so paid
26 into the veterans' bonus sinking fund under the provis-
27 ions of this act shall be expended for the purpose of pay-
28 ing the interest and principal of the bonds hereby pro-
29 vided for as they severally become due and payable and
30 for no other purpose except that the fund may be invested
31 until needed, as herein provided.

Sec. 7. *Covenants of State.*—The state of West Virginia
2 hereby covenants and agrees with the holders of bonds
3 issued pursuant hereto that all the provisions of this act
4 shall be and constitute an irrevocable contract with the
5 holders of such bonds from time to time; that the rates
6 of additional taxes on cigarettes and nonintoxicating beer
7 and the additional charge on the sale of each bottle of
8 alcoholic liquor, otherwise provided by law exclusively
9 for payment of such bonds, shall not be reduced so long
10 as any of the bonds, or any interest thereon, are out-
11 standing and unpaid, unless the payment thereof has
12 been adequately provided for; and that to the full extent
13 permitted by the constitution of West Virginia any of
14 the covenants, agreements and provisions of this act may
15 be enforced in any court of competent jurisdiction by any
16 holder of such bonds or of any interest coupon appertain-
17 ing thereto.

18 The state of West Virginia further covenants and agrees
19 that if in any fiscal year thereafter the aggregate amount
20 of moneys derived from such additional taxes on ciga-

21 rettes and beer and such additional charges on alcoholic
22 liquor are insufficient to meet all principal and interest
23 payments due on such bonds during that year, it will
24 levy and collect such additional taxes on cigarettes and
25 beer and such additional charges on alcoholic liquor, as
26 may be necessary to produce sufficient revenue to meet
27 such payments as the same shall become due, or that in
28 lieu of such increased taxes or charges on cigarettes, beer
29 and alcoholic liquor, it may levy and collect an additional
30 general consumers sales tax or a graduated income tax
31 in the amount necessary for such purpose.

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 payment of the bonus as herein provided. All sales
5 shall be at not less than par and accrued interest. All
6 interest coupons becoming payable prior to the sale date
7 shall be canceled by the treasurer and rendered ineffec-
8 tive, before the delivery of the bonds so sold.

Sec. 9. *Proceeds Paid into Veterans' Bonus Fund; Ex-*
2 *penditure.*—The proceeds of all sales of bonds herein au-
3 thorized shall be paid into the veterans' bonus fund, which
4 is hereby created, and shall be expended solely for the
5 payment of the veterans' bonus and the costs of adminis-
6 tration necessarily incident thereto.

7 If deemed advisable, the governor may direct the state
8 treasurer to invest a part of the moneys in the veterans'
9 bonus fund, in direct obligations of the United States of
10 America, having a maturity of not exceeding one hundred
11 eighty-five days from date of purchase. Any interest or
12 profit accruing from such purchases shall be credited to
13 the veterans' bonus fund.

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

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

Sec. 12. *Interim Certificates.*—The governor may au-

2 authorize 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
6 state of West Virginia under all of the provisions of this
7 act just as fully and completely as the engraved and per-
8 manent bonds.

Sec. 13. *Payment of Expenses.*—All necessary expenses
2 incurred in the execution of this act shall be paid out of
3 the veterans' bonus fund on warrants of the auditor of the
4 state drawn on the state treasury.

CHAPTER 197

(House Bill No. 54—By Mr. Speaker, Mr. Flannery)

AN ACT providing for the payment of the veterans' bonus and
for the administration thereof, prohibiting certain acts
with respect thereto, and prescribing penalties for the vio-
lation of such provisions.

[Passed February 5, 1951; in effect from passage. Approved by the Governor.]

Payment of Veterans' Bonus.

Section

1. Department of veterans' affairs to administer act; veterans' ad-
visory committee.
2. Veterans entitled to bonus.
3. Payment of bonus to relatives of deceased veterans.
4. Amount of bonus.
5. Limitation on time for filing application.
6. Determination by director of the validity of claims.
7. Review board hearing.
8. Court review of final orders of review board.
9. Payments from veterans' bonus fund; balance to veterans' bonus
sinking fund.
10. Penalty for making false statements.
11. Penalty for filing more than one application.
12. Bonus payment not subject to taxation or legal process; claim
therefor not assignable.
13. Collection of fees or charges; penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. *Department of Veterans' Affairs to Admin-
2 ister Act; Veterans' Advisory Committee.*—The West Vir-

3 ginia department of veterans' affairs is hereby designated
4 as the state agency to administer the provisions of this
5 act. The director of the department of veterans' affairs
6 shall do all things necessary for the proper administration
7 thereof. The director, with the advice and consent of the
8 veterans' council, may adopt and promulgate such reasonable
9 rules and regulations, not inconsistent herewith, as
10 may be necessary to effect the purposes of this act, including
11 regulations concerning the evidence or other data
12 required to establish eligibility and qualification for the
13 bonus as herein provided. The director shall prepare and
14 furnish all necessary forms, which shall be distributed
15 by him through such veterans' and other organizations
16 as he may deem most practicable.

17 The department of veterans' affairs shall, insofar as
18 possible, utilize the full personnel, supplies and equipment
19 of the department in the administration of this act.
20 The department may employ such additional deputies
21 and other assistants as may be necessary for the proper
22 administration of this act, subject, however, to the approval
23 of the veterans' council and the director of the
24 budget, who must also approve the salaries and other
25 compensation of such deputies and assistants.

26 The governor may appoint a veterans' advisory committee,
27 consisting of representatives of veterans' organizations
28 chartered under acts of Congress and operating
29 in this state, to advise and counsel with the director in
30 the administration of this act. Such committee shall meet
31 on the call of the director at such times and places as he
32 may specify.

Sec. 2. *Veterans Entitled to Bonus.*—In grateful recognition
2 of their sacrifices in times of war, a cash bonus as
3 herein provided shall be paid to veterans of World War
4 I and World War II. Such bonus shall be paid to all persons
5 who rendered active service in the armed forces of
6 the United States in World War I between the sixth day
7 of April, one thousand nine hundred seventeen, and the
8 eleventh day of November, one thousand nine hundred
9 eighteen, both dates inclusive, or in World War II between
10 the seventh day of December, one thousand nine

12 hundred forty-one, and the second day of September,
13 one thousand nine hundred forty-five, both dates in-
14 clusive, or in both such wars, who were bona fide resi-
15 dents of the state of West Virginia at the time of their
16 entry into such service and for a period of at least six
17 months prior thereto, who were not dishonorably dis-
18 charged from such forces, and who within the periods
19 specified actively served in such armed forces for a period
20 of at least ninety days. A cash bonus shall also be paid
21 to any disabled veteran, otherwise qualified, who was
22 discharged within ninety days after entering the services
23 because of a service connected disability.

24 As used in this act, "armed forces" shall include the
25 following: The United States Army, Army of the United
26 States, Women's Army Corps, Women's Auxiliary Army
27 Corps, Army Nurses' Corps, United States Navy, United
28 States Naval Reserve, United States Navy Women's Re-
29 serve, Navy Nurses' Corps, United States Marine Corps,
30 United States Marine Corps Reserve, United States Ma-
31 rine Corps Women's Reserve, United States Coast Guard,
32 United States Coast Guard Reserve, and the United States
32 Coast Guard Women's Reserve.

Sec. 3. *Payment of Bonus to Relatives of Deceased Vet-*
2 *erans.*—The bonus to which any deceased veteran would
3 have been entitled, had he lived, shall be paid only to
4 the following surviving relatives of such veteran, if such
5 relatives are residents of this state when application for
6 payment is made: Any unremarried widow, or if none,
7 any child or children under the age of sixteen, or if none,
8 any dependent parent or parents.

Sec. 4. *Amount of Bonus.*—The amount of such cash
2 bonus shall be calculated on the basis of ten dollars for
3 each month, or major fraction thereof, served within the
4 territorial limits of the forty-eight states and the District
5 of Columbia, and fifteen dollars for each month, or major
6 portion thereof, served outside such limits, but such
7 amount shall in no case exceed three hundred dollars for
8 those who served only within the territorial limits speci-
9 fied above, and four hundred dollars for those who served
10 outside such limits.

Sec. 5. *Limitation on Time for Filing Application.*—No
2 bonus shall be paid to any person otherwise entitled
3 thereto unless application therefor shall be filed with
4 the department on or before the thirty-first day of Decem-
5 ber, one thousand nine hundred fifty-two.

Sec. 6 *Determination by Director of the Validity of*
2 *Claims.*—Upon receipt of an application for benefits here-
3 under, the director shall, as soon as may be practicable,
4 determine the validity of the claim. As soon as such
5 determination has been made, the director shall mail to
6 the applicant a notice stating the amount of the bonus
7 payment, if any, which he finds to be due.

8 Any applicant who is aggrieved by any such determina-
9 tion of the director may demand that his claim be re-
10 viewed as hereinafter provided. Such demand for review
11 shall be filed with the director in writing within sixty
12 days after the date on which the notice by the director
13 was mailed to the applicant. Upon receipt of such demand
14 for review the director shall certify the demand, together
15 with all files and records relating to the application, to a
16 board of review. Unless such demand for review is duly
17 filed with the director, all findings and orders of the di-
18 rector with reference to such claim shall be final and con-
19 clusive upon the applicant.

Sec. 7. *Review Board Hearing.*—For the purpose of this
2 act, the veterans' council of the state department of vet-
3 erans' affairs is hereby designated as the "Veterans'
4 Bonus Review Board". Under rules and regulations
5 adopted by the veterans' council, any one or more mem-
6 bers of a board of review may conduct hearings on a
7 demand by an applicant for review of the determination
8 of the director, and may report his or their findings there-
9 on, together with the entire record of the case, to the
10 review board for its final determination and decision.

11 If the number of demands for review hereunder shall
12 become too numerous to be handled expeditiously by the
13 veterans' council, the governor, upon the recommenda-
14 tion of the council, may appoint one or more additional
15 boards of review. Additional boards shall consist of not
16 more than three members, one of whom shall be a law-

17 yer, who shall have the same qualifications as the mem-
18 bers of the veterans' council, and who shall serve at the
19 will and pleasure of the governor for such time as may be
20 necessary for the purposes of this act. Each such addi-
21 tional review board shall have the same authority and its
22 final decision shall have the same force and effect as that
23 of the veterans' council under the provisions of this act.

24 Upon receipt from the director of the files and records
25 relating to any claim, the board, or a member or mem-
26 bers thereof, as the case may be, shall fix a time and place
27 for a hearing thereon. The applicant shall be notified of
28 the time and place fixed and shall be informed of his
29 right to demand a public hearing if he so desires. At the
30 hearing the claim shall be reexamined *de novo* and the
31 submission of additional evidence may be required or
32 permitted. Upon the conclusion of such hearing the board
33 of review, on the basis of the record and the recommenda-
34 tions, if any, made by the member or members who con-
35 ducted the hearing, shall enter its order reversing, affirm-
36 ing or modifying the determination made by the director.

37 Any order so entered by the board shall be final and
38 conclusive upon the applicant and the director unless an
39 application is made for review to the supreme court of
40 appeals as hereinafter provided. The board shall mail to
41 the applicant and to the director a copy of the order
42 entered by it in each case.

43 All notices and correspondence shall be directed to the
44 applicant at the address listed in his application and all
45 notices and correspondence to the director shall be ad-
46 dressed to him at his office in the city of Charleston.

47 The director shall provide for each review board such
48 clerical and stenographic assistants and such supplies as
49 may be necessary for the performance of its duties.

50 Each member of a review board shall receive as com-
51 pensation fifteen dollars per day for each day actually
52 spent in the performance of his duties under the provis-
53 ions of this act, and shall be reimbursed for all traveling
54 and other expenses necessarily incurred by him in the
55 performance of such duties.

Sec. 8. *Court Review of Final Orders of Review*

2 *Board.*—Within thirty days after the entry of any final
3 order of a board of review, the director or any applicant
4 may petition for review of such order by the supreme
5 court of appeals in the same manner as is provided by sec-
6 tion four, article five, chapter twenty-three of the code,
7 for judicial review of final decisions by the workmen's
8 compensation appeal board.

Sec. 9. *Payments from Veterans' Bonus Fund; Balance*
2 *to Veterans' Bonus Sinking Fund.*—All bonus payments
3 and other expenses and costs of administering this act
4 shall be paid from the veterans' bonus fund, otherwise
5 established by law. Any balance remaining in such fund
6 after all such payments have been made shall be trans-
7 ferred to the veterans' bonus sinking fund and used
8 solely for the payment of the bonus bonds.

Sec. 10. *Penalty for Making False Statements.*—Any
2 person who shall knowingly make any false or misleading
3 statement or representation, oral or written, in support
4 of any claim for a bonus under the provisions of this act,
5 shall be guilty of a felony, and upon conviction thereof,
6 shall be punished by imprisonment in the penitentiary for
7 not less than one year nor more than five years.

Sec. 11. *Penalty for Filing More Than One Applica-*
2 *tion.*—Only one application shall be filed by any veteran
3 or by any person who claims that he is entitled to a share
4 of the bonus payable in the case of any deceased veteran.
5 Any person who, with intent to defraud, violates the pro-
6 visions of this section shall be guilty of a felony, and upon
7 conviction thereof shall be punished by a fine of not less
8 than five hundred dollars nor more than one thousand
9 dollars, or by imprisonment in the penitentiary for not
10 less than one nor more than two years, or by both such
11 fine and imprisonment.

Sec. 12. *Bonus Payment not Subject to Taxation or*
2 *Legal Process; Claim Therefor not Assignable.*—The
3 bonus provided by this act is hereby declared to be a gift
4 or gratuity made as a token of appreciation for the ser-
5 vice rendered by the veteran to the people of West Vir-
6 ginia in time of grave national emergency and is in no

7 sense compensation for such services. The money re-
8 ceived as such bonus shall be exempt from taxation and
9 such money, or any claim therefor, shall not be subject
10 to garnishment, attachment or levy of execution. A claim
11 for payment of a bonus under the provisions of this act
12 shall not be assignable for any purpose whatsoever.

Sec. 13. *Collection of Fees or Charges; Penalty.*—No fee
2 or charge shall be made by any person, attorney, agent or
3 representative for any service in connection with the
4 filing of an application for payment of a bonus hereunder,
5 except such fees as are provided by law for the perfor-
6 mance of official duties by a duly elected or appointed
7 officer of this state or a political subdivision thereof. No
8 person shall, for a consideration, discount or attempt to
9 discount or advance money upon any warrant issued for
10 payment of any bonus provided for in this act.

11 If an applicant shall employ an attorney to represent
12 him in connection with the prosecution of his claim before
13 a board of review, or before the supreme court of appeals,
14 the attorney shall file with the director an executed copy
15 of his contract of employment, and the total amount of
16 the fee therein provided shall not exceed twenty-five per
17 cent of the total amount awarded. It shall be the duty of
18 the director to protect such attorney in the collection of
19 the fee provided in such contract from the award made
20 in favor of the applicant under the provisions of this act.

21 Any person who violates any provision of this section
22 shall be guilty of a misdemeanor, and upon conviction
23 thereof shall be punished by a fine of not less than
24 twenty-five dollars nor more than five hundred dollars,
25 or by imprisonment for not less than ten days nor more
26 than twelve months, or by both such fine and imprison-
27 ment.

CHAPTER 198

(Senate Bill No. 268—By Mr. Johnston, Mr. President)

AN ACT authorizing the state treasurer to deposit the proceeds
from the sales of veterans' bonus bonds in banks in this

state and prescribing the conditions upon which banks may qualify as depositories of such funds.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Deposit of Proceeds from Sales of Veterans' Bonus Bonds.

Section

1. Deposit of proceeds of sales of veterans' bonus bonds.
2. Bond to be executed by depository banks; penalty thereof; approval; action thereon; recordation.
3. Collateral security; amount; where deposited; sale thereof in case of default.

Be it enacted by the Legislature of West Virginia:

Section 1. *Deposit of Proceeds of Sales of Veterans' Bonus Bonds.*—Notwithstanding any other provision of law, the treasurer is authorized, as provided in this act to establish an account, to be known as the veterans' bonus account, in state or national banks within the State of West Virginia. To the credit of such accounts he shall deposit all proceeds from the sale of veterans' bonus bonds, authorized by the provisions of Engrossed House Bill number fifty-five, an Act of the Legislature, regular session, one thousand nine hundred fifty-one.

Sec. 2. *Bond to be Executed by Depository Banks; Penalty Thereof; Approval; Action Thereon; Recordation.*—Before the treasurer shall deposit any money in the veterans' bonus accounts authorized to be established by section one of this act, the bank or banks designated by him shall execute a bond, to be accepted and approved by the board of public works, payable to the state of West Virginia, in a penalty in excess of the maximum amount of money that shall be deposited in the account at any one time, as hereinafter provided, and conditioned for the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with such depository, such bond to continue in full force and effect until the veterans' bonus account has been closed with such bank by the treasurer.

An action shall lie on such bond at the instance of the

17 board of public works or the treasurer for the recovery
18 of any money deposited in the depository, upon failure
19 or default of the depository to fully and faithfully ac-
20 count for and pay over any and all state moneys deposited
21 by the treasurer therein. The bond shall not be accepted
22 by the board of public works until it shall have been
23 submitted to the attorney general, and certified by him
24 to be in due and legal form, and conformable to the
25 provisions of this act, which certificate shall be endorsed
26 thereon. After acceptance and approval by the board
27 of public works, the bond shall be recorded by the secre-
28 tary of state in the book kept in his office for the purpose
29 of recording bonds to secure other state accounts.

Sec. 3. *Collateral Security; Amount; Where Deposited;*
2 *Sale Thereof in Case of Default.*—The board of public
3 works shall accept, for the faithful performance of the
4 conditions of such bonds, collateral negotiable securities
5 consisting of direct obligations of the United States,
6 bonds of federal land banks, bonds of the state of West
7 Virginia or of any county or municipality thereof, or any
8 other bonds or securities approved by the board of public
9 works. All collateral deposited by a bank in the manner
10 required by the following provisions of this section and
11 hereunder accepted, is hereby designated to secure the
12 bond executed by the depository bank under the pro-
13 visions of section two of this act, and in the event of an
14 action on the bond by the board of public works or the
15 treasurer, if sufficient money is not realized therefrom
16 to fully reimburse the state for losses caused by the in-
17 ability of the depository bank to pay over promptly all
18 state moneys as required, the board of public works shall
19 have the authority to place on the market and sell any
20 or all securities deposited by the defaulting bank to se-
21 cure its bond. The proceeds from such sale, or so much
22 thereof as is necessary, shall be retained by the board
23 of public works and applied to reimburse the state for
24 the losses resulting from such default. Any funds re-
25 maining after such sale, and all securities belonging to
26 the bank not sold, shall then be promptly turned over
27 or released to the owner thereof.
28 The amount of state funds on deposit in any bank shall

29 at no time be permitted to exceed ninety per cent of the
30 value of the collateral pledged to secure any bond, and
31 the value thereof shall be determined by the board of
32 public works.

33 All collateral securities may be delivered to the treas-
34 urer of the state of West Virginia, who shall receipt
35 therefor to the owner thereof, and the treasurer and his
36 bondsmen shall be liable to any person for any loss by
37 reason of embezzlement or misapplication of such secur-
38 ities by the treasurer or any of his official employees, and
39 for the loss thereof due to his negligence or the negligence
40 of any of his official employees; or, with the permission
41 of the treasurer, the depository bank may deposit for
42 safekeeping the collateral in a bank or banks within or
43 without the state of West Virginia: *Provided*, That the
44 bank holding such securities shall set aside the collateral
45 so pledged and hold it for the account of the treasurer of
46 the state of West Virginia, and in addition thereto issue
47 to the treasurer an escrow receipt or contract evidencing
48 that such has been done: *And provided further*, That the
49 bank or banks holding the collateral shall comply with
50 such rules and regulations for handling and protecting
51 the securities as the treasurer may make, with the ap-
52 proval of the board of public works.

CHAPTER 199

(Senate Bill No. 52—By Mr. Johnston, Mr. President)

AN ACT to authorize and empower the commissioner of agri-
culture to apply for the return of the assets of the West
Virginia Rural Rehabilitation Corporation, and to enter
into agreements with the secretary of agriculture of the
United States for the future administration of such assets.

[Passed February 5, 1951: in effect from passage. Approved by the Governor.]

West Virginia Rural Rehabilitation Corporation.

Section

1. Commissioner authorized to apply for return of assets.

2. Commissioner authorized to enter into administration agreements with the United States.
3. Deposit of funds and use of assets.
4. Separability.

Be it enacted by the Legislature of West Virginia:

Section 1. *Commissioner Authorized to Apply for Return of Assets.*—The commissioner of agriculture is hereby designated as the official of the state of West Virginia to make application to and receive from the secretary of agriculture of the United States, or any other proper federal official, pursuant and subject to the provisions of Public Law 499, 81st Congress, approved May 3, 1950, the trust assets, either funds or property, held by the United States as trustee in behalf of the West Virginia Rural Rehabilitation Corporation.

Sec. 2. *Commissioner Authorized to Enter into Administration Agreements with the United States.*—The commissioner of agriculture is authorized to enter into agreements with the secretary of agriculture of the United States pursuant to section 2(f) of the aforesaid Act of the Congress of the United States, upon such terms and conditions and for such periods of time as may be mutually agreeable, authorizing the secretary of agriculture of the United States to accept, administer, expend and use in the state of West Virginia all or any part of such trust assets, or any other funds of the state of West Virginia which may be appropriated for such uses, for carrying out the purposes of Titles I and II of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title IV thereof, as now or hereafter amended.

Sec. 3. *Deposit of Funds and Use of Assets.*—Funds and the proceeds of the trust assets returned to the commissioner of agriculture pursuant to section one of this act which are not retransferred to the secretary of agriculture of the United States pursuant to section two of this act, shall be paid into the state treasury and carried in a separate account for use for such of the rural rehabilitation purposes permissible under the charter of the now dissolved West Virginia Rural Rehabilitation Corporation

10 as may from time to time be agreed upon by the com-
11 missioner of agriculture and the secretary of agriculture
12 of the United States.

Sec. 4. *Separability*.—If any provision of this act, or the
2 application thereof to any person or circumstances, is held
3 invalid, the remainder of this act, and the application of
4 such provision to other persons or circumstances, shall
5 not be affected thereby.

CHAPTER 200

(Senate Bill No. 252—By Mr. Love)

AN ACT to amend article five, chapter forty-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 twenty, relating to rights of devisees and bona fide
purchasers of real estate devised by wills.

[Passed March 10, 1951; in effect ninety days from passage. Approved by the
Governor.]

Article 5. Production, Probate and Record of Wills.

Section

20. Title to real estate devised by wills; rights of devisees and bona
fide purchasers.

Be it enacted by the Legislature of West Virginia:

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

Section 20. *Title to Real Estate Devised by Wills; Rights*
2 *of Devisees and Bona Fide Purchasers*.—The title of a
3 bona fide purchaser of real estate, without notice and for
4 valuable consideration, from the devisee or devisees of a
5 testator, a will of whom has been duly admitted to pro-
6 bate devising such real estate, shall not be affected or
7 impaired by any devise or other disposition of any such

8 real estate by the testator by or in any other will or wills
9 executed by him subsequent to the instrument already
10 admitted to probate as his last will and testament, unless
11 any such subsequently executed will (or if any such
12 will has been probated without the state, an authenticated
13 copy thereof) shall be filed for probate in the court
14 having jurisdiction for that purpose, or with the clerk
15 thereof, within one year next after the testator's death
16 and shall afterwards be admitted to probate as the will
17 of such real estate and entered of record in the proper
18 clerk's office: *Provided, however,* That if any devisee
19 under any such subsequently executed will is at the
20 time of the testator's death an infant, or insane, or a con-
21 vict, the limitation created by this section shall not affect
22 the rights of any such infant, insane person or convict
23 until after the expiration of one year from the removal
24 of such disability.

CHAPTER 201

(Senate Bill No. 71—By Mr. Love)

AN ACT to amend and reenact section one, article one, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the workmen's compensation commissioner, appointment, compensation and legal services by attorney general.

[Passed March 8, 1951; in effect from passage. Approved by the Governor.]

Article 1. General Administrative Provisions.

Section .

1. Compensation commissioner; appointment; legal services by attorney general.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Compensation Commissioner; Appointment; Legal Services by Attorney General.*—There shall be a state compensation commissioner who shall be a citizen of this state entitled to vote and shall be appointed by the governor by and with the advice and consent of the senate. The compensation commissioner in office on the date this code takes effect shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of June, one thousand nine hundred thirty-five, and on or before the first day of June of each sixth year thereafter, the governor shall appoint a compensation commissioner to serve for a term of six years commencing on the first day of June. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof. The person so appointed shall take the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state. He shall give bond in the penalty of twenty-five thousand dollars conditioned for the faithful performance of duties of his office, which bond shall be approved by the attorney general as to form, and by the governor as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premiums shall be paid out of the appropriation made for the administration of this chapter. The commissioner shall hold no position of trust or profit, or engage in any occupation or business, interfering or inconsistent with his duties as such commissioner. The commissioner shall receive an annual salary of seven thousand dollars, payable in the same manner as the salaries of other state officers are paid and charged to the appropriations which shall be made from time to time hereafter by the state for the administration of this chapter. The commissioner shall have an official seal for the authentication of his orders and proceedings, upon which seal shall be engraved the words, "West Virginia Compensation Commissioner," and such other design as the commissioner may prescribe.

42 The courts in this state shall take judicial notice of the
43 seal of the commissioner, and in all cases copies of orders,
44 proceedings or records in the office of the West Virginia
45 compensation commissioner, certified by the secretary of
46 the commissioner under his seal, shall be equal to the
47 original in evidence.

48 The attorney general shall perform all legal services
49 required by the commissioner under the provisions of
50 this chapter: *Provided, however,* That in any case in
51 which an application for review is prosecuted from any
52 final decision of the workmen's compensation appeal
53 board to the supreme court of appeals, as provided by sec-
54 tion four, article five of this chapter, or in any court pro-
55 ceeding, including a proceeding before the workmen's
56 compensation appeal board, in which such representa-
57 tion shall appear to the commissioner to be desirable, he
58 may designate a regular employee of his office, qualified
59 to practice before such court, to represent him upon such
60 appeal or proceeding, and in no case shall the person so
61 appearing for the commissioner before the court receive
62 remuneration therefor other than his regular salary.

— o —

CHAPTER 202

(Senate Bill No. 249—By Mr. Stemple)

AN ACT to authorize the county court of Barbour county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special building fund for building an addition to, alteration or repair of, the courthouse and jail, and to expend for such purposes the fund so created.

[Passed March 2, 1951; in effect from passage. Approved by the Governor.]

Section

1. Barbour county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Barbour County Court Authorized to Create
2 a Special Building Fund.*—The county court of Barbour

3 county is hereby authorized and empowered from year
4 to year to use any unexpended funds of said county and
5 any surpluses in the general county fund for the purpose
6 of creating a special building fund for building an addi-
7 tion to, alteration or repair of, the courthouse and jail of
8 said county, and said county court is authorized to expend
9 for such purposes the fund so created.

—o—

CHAPTER 203

(House Bill No. 425—By Mr. White, of Boone)

AN ACT to authorize the county courts of Boone and Clay counties to transfer the unexpended balance in the dog tax fund to the general county fund of said counties.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Section

1. Boone and Clay county courts authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Boone and Clay County Courts Authorized to Transfer Dog Tax Fund.*—The county courts of Boone and Clay counties are hereby authorized and empowered to transfer the unexpended balances in excess of two hundred fifty dollars now in the dog tax fund of each of said counties remaining, and not needed for the payment and satisfaction of claims and expenses against said dog tax fund, to the general county fund.

The county courts of Boone and Clay counties are hereby authorized and empowered to transfer and expend, from time to time and as it may appear advisable, any part of the dog tax fund of the respective counties to the general county fund, the same to be used and expended as a part of the general county fund of said counties, providing that at least two hundred fifty dollars shall remain in the dog tax fund for the payment and satisfaction of all claims and expenses against said dog tax fund.

- 19 All acts or parts of acts inconsistent herewith are here-
20 by repealed, insofar as they may apply to Boone and Clay
21 counties.

CHAPTER 204

(House Bill No. 46—By Mr. Caplan)

AN ACT to amend and reenact section three, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, relating to the election, time of electing, length of term of office and qualifications of the judge of the criminal court of Harrison county.

[Passed February 5, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

3. Election, qualifications and term of judge.

Be it enacted by the Legislature of West Virginia:

That section three, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, be amended and reenacted to read as follows:

Section 3. *Election, Qualifications and Term of Judge.*—

- 2 There shall, at the general election to be held in this state
3 on the Tuesday next after the first Monday in November,
4 in the year one thousand nine hundred and fifty-two, and
5 every eight years thereafter, be elected by the legal voters
6 of Harrison county, West Virginia, a judge of the criminal court of said county, who shall be a resident member of the bar of said county, and shall be disqualified
7 from practicing law in all of the courts of this state during his continuance in office; who shall preside over said
8 court for the term of eight years from the first day of
9 January succeeding his election, and shall be, except as
10 to jurisdiction, subject to the laws in force governing
11 circuit court judges. The judge of said court elected at the
12 general election held in this state on the Tuesday next
13 after the first Monday in November, in the year one thou-

17 sand nine hundred and forty-eight to preside over said
18 court for the term of four years from the first day of
19 January succeeding his election, shall hold office until the
20 first day of January, one thousand nine hundred fifty-
21 three, and until his successor is elected and qualified.

CHAPTER 205

(House Bill No. 47—By Mr. Caplan)

AN ACT to amend and reenact section four, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine; as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen; as amended and reenacted by section four, chapter one hundred forty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-nine; as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, as amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as last amended by section four, chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, all relating to the salary of the judge of the criminal court of Harrison county.

[Passed February 2, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen. as amended and reenacted by section four, chapter

one hundred forty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-nine, as amended and re-enacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, as amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as last amended by section four, chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and re-enacted to read as follows:

Section 4. *Salary of Judge.*—The judge of the criminal
 2 court of Harrison county, West Virginia, shall from and
 3 after the first day of January, one thousand nine hundred
 4 fifty-three, receive for his services a salary of six thou-
 5 sand five hundred dollars per year; said amount to be
 6 paid in twelve equal monthly installments from year to
 7 year by the county court of said county, out of funds of
 8 said county, in the manner provided by statute. The
 9 salary of said judge shall continue as provided in section
 10 four, chapter one hundred sixty-three of the acts of the
 11 Legislature, regular session, one thousand nine hundred
 12 forty-five, until the first day of January, one thousand
 13 nine hundred fifty-three.

CHAPTER 206

(House Bill No. 423—By Mr. Bowles)

AN ACT to amend and reenact section two, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the domestic relations court of Kanawha county.

[Passed March 9, 1951: in effect from passage. Approved by the Governor.]

Section

2. Jurisdiction.

Be it enacted by the Legislature of West Virginia:

That section two, chapter one hundred seventy-two, acts of

the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 2. *Jurisdiction.*—The court shall have jurisdiction within Kanawha county, concurrent with the circuit court of said county, of actions, suits, causes and proceedings relating to annulment of marriages, affirmation of marriages, separate maintenance, divorces, alimony, the adoption of adults and children, the care and disposition of delinquent, defective, neglected and dependent children, juvenile offenders, desertion and nonsupport of wives and children, child labor, truancy under the school laws of the state, and any and all other matters arising under the laws of the state of West Virginia, common or statutory, incidental to the foregoing, including, but not limited to, the disposition of property and property interests involved in any such causes and matters and, as well, the adjudication of any and all rights, titles and interests necessary or incidental to a full determination of all such causes and matters pending in said court.

The court shall have general equity jurisdiction in any causes or proceedings before it, with full power to grant injunctions in matters involving the care, preservation and protection of persons or property in such causes or proceedings.

The court shall also have concurrent jurisdiction with the circuit court of said county over all habeas corpus proceedings involving children under the ages of twenty-one years.

The manner and modes of procedure, power and jurisdiction conferred by law upon the circuit court of Kanawha county in any and all of the foregoing matters and causes are hereby conferred upon and shall be exercised by the domestic relations court of Kanawha county.

It shall not be necessary in any such cause or proceedings to set forth upon the record the facts authorizing the court to take jurisdiction thereof, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

CHAPTER 207

(House Bill No. 422—By Mr. Bowles)

AN ACT to amend and reenact section eight, chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the domestic relations court of Kanawha county.

[Passed March 9, 1951; in effect ninety days from passage. 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 forty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-nine, 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, annulment of marriages and affirmation of marriages, may be heard and determined either in term time or in vacation: *Provided, however,* That proper notice of any such

22 proceedings be given as provided by law for the particular
23 case.

24 The mode of procedure in cases instituted in this court
25 shall be the same as that prescribed for the circuit court
26 in similar causes. The court is authorized and empowered
27 to appoint such additional officers, divorce commissioners,
28 commissioners in chancery, special commissioners, jury
29 commissioners, and probation officers, and such medical,
30 clerical and secretarial assistance as shall enable the court
31 to discharge all the duties required of it under the pro-
32 vision of this act, and the general laws of the state. The
33 judge may appoint a chief probation officer, assistant pro-
34 bation officers, and necessary medical, clerical, secretarial
35 and other necessary assistants to be paid by the county
36 court: *Provided*, That the appointing judge shall first ob-
37 tain the approval of the county court of Kanawha county
38 of the expenses to be incurred and the salary or salaries
39 to be paid the probation officers and clerical assistants,
40 which approval shall be discretionary with said county
41 court and shall be required before any appointment made
42 hereunder becomes effective or any expense is incurred
43 in connection therewith. Such appointments shall be made
44 by the judge and the appointees shall serve during the
45 pleasure of the judge.

46 The chief probation officer shall receive as compensa-
47 tion for his or her services an annual salary of not less
48 than thirty-six hundred dollars nor more than fifty-four
49 hundred dollars to be determined by the judge. Assistant
50 probation officers and medical assistants shall receive as
51 compensation an annual salary of not less than twenty-
52 four hundred dollars nor more than forty-two hundred
53 dollars to be determined by the judge. Clerical and sec-
54 retarial assistants shall receive as compensation for his
55 or her services an annual salary of not less than twenty-
56 one hundred dollars nor more than three thousand dollars
57 to be determined by the judge. In addition to the annual
58 salary herein provided for the chief probation officer and
59 each assistant probation officer and medical assistants,
60 they shall be reimbursed by the county court by reason
61 of his or her necessary expenses actually incurred in the
62 performance of official duties including an allowance of

63 seven cents a mile for his or her automobile driven in the
64 performance of official duties. The appointment of the
65 chief probation officer, assistant probation officers, medi-
66 cal and secretarial assistants, when made by the judge,
67 shall be entered on the law order book of the court. A
68 copy of the order of appointment shall be transmitted
69 to the clerk of the county court. Thereupon, the county
70 court shall make provision for payment and shall pay
71 the salaries of the chief probation officer, assistant proba-
72 tion officers, medical, clerical and secretarial assistants as
73 shown by the order of appointment. The annual salaries
74 provided for in said order of appointment shall be paid
75 in equal monthly installments. Expenses and mileage
76 accounts of the chief probation officer, assistant probation
77 officers, and medical assistants shall be itemized and veri-
78 fied and presented to and paid by the county court, if such
79 accounts are approved by the judge. The county court
80 shall provide such office space, equipment and supplies
81 for the probation staff, clerical, secretarial and medical
82 assistants as the judge shall deem necessary and adequate.

83 The judge shall maintain a political balance between
84 the two major political parties of Kanawha county in
85 his appointments of divorce commissioners, commission-
86 ers in chancery and special commissioners, so that at no
87 time will the number of either divorce commissioners or
88 commissioners in chancery or of special commissioners of
89 one political affiliation exceed by more than one the num-
90 ber of such commissioners affiliated with the other major
91 political party of the county. The court shall make pro-
92 vision for reference of such divorce and other matters
93 as may be proper from time to time to said commissioners
94 in rotation so as to effect insofar as practicable, an equit-
95 able distribution of work between and among them. The
96 judge of the court shall have power to make and promul-
97 gate such rules for the transaction of the business of the
98 court as may be necessary: *Provided*, That all such rules
99 shall be in conformity with the laws of the state of West
100 Virginia and with any rules promulgated by the supreme
101 court of appeals of this state.

CHAPTER 208

(Senate Bill No. 187—By Mr. Love)

AN ACT to amend chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as amended, by adding thereto a new section to be designated section thirty-seven, relating to the criminal court of Kanawha county.

[Passed February 20, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

37. Probation staff; chief probation officer; assistant probation officers; clerical and secretarial assistants.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as amended, be amended by adding thereto a new section to be designated section thirty-seven to read as follows:

Section 37. *Probation Staff; Chief Probation Officer;*

2 *Assistant Probation Officers; Clerical and Secretarial As-*
3 *stants.*—The court is authorized and empowered to ap-
4 point such probation officers, assistant probation officers,
5 clerical and secretarial assistants as shall enable the court
6 to discharge all the duties required of it under the pro-
7 vision of this act and the general laws of the state. The
8 judge may appoint a chief probation officer, assistant
9 probation officers, and necessary clerical and secretarial
10 assistants, and other necessary assistants to be paid by
11 the county court. Such appointments shall be made
12 by the judge and the appointees shall serve during the
13 pleasure of the judge.

14 The chief probation officer shall receive as compensa-
15 tion for his or her services an annual salary of not less
16 than three thousand dollars nor more than forty-eight
17 hundred dollars, to be determined by the judge. As-
18 sistant probation officers shall receive as compensation
19 an annual salary of not less than twenty-four hundred
20 dollars nor more than four thousand dollars, to be de-

21 terminated by the judge. Clerical and secretarial as-
22 sistants shall receive as compensation for his or her
23 services an annual salary of not less than eighteen hun-
24 dred nor more than twenty-seven hundred dollars, to be
25 determined by the judge. In addition to the annual
26 salary herein provided for the chief probation officer
27 and each assistant probation officer, they shall be re-
28 imbursed by the county court by reason of his or her
29 necessary expenses actually incurred in the performance
30 of official duties, including an allowance of seven cents
31 a mile for his or her automobile driven in the perform-
32 ance of official duties. The appointment of the chief pro-
33 bation officer, assistant probation officers, clerical and
34 secretarial assistants when made by the judge shall be
35 entered by the order of the court. A copy of the order
36 of appointment shall be transmitted to the clerk of the
37 county court. Thereupon the county court shall make
38 provision for payment and shall pay the salaries of the
39 chief probation officer, the assistant probation officers,
40 clerical and secretarial assistants, as shown by the order
41 of appointment. The annual salaries provided for in said
42 order of appointment shall be paid in equal monthly
43 installments. Expense and mileage accounts of the chief
44 of probation officers and assistant probation officers shall
45 be itemized and verified and presented to and paid by
46 the county court, if such accounts are approved by the
47 judge. The county court shall provide such office space,
48 equipment and supplies for the probation staff, clerical
49 and secretarial assistants as the judge shall deem neces-
50 sary and adequate: *Provided*, That the appointing judge
51 shall first obtain the approval of the county court of the
52 expenses to be incurred and the salaries to be paid the
53 chief probation officer, assistant probation officers, clerical
54 and secretarial assistants, which approval shall be dis-
55 cretionary with the county court and shall be required
56 before any appointment made hereunder becomes ef-
57 fective.

CHAPTER 209

(Senate Bill No. 38—By Mr. Love)

AN ACT to amend and reenact section eleven, chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as last amended by section eleven, chapter one hundred sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to the terms of the intermediate court of Kanawha county.

[Passed February 23, 1951; in effect from passage. Approved by the Governor.]

Section

11. Terms of intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, as last amended by section eleven, chapter one hundred sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 11. *Terms of Intermediate Court of Kanawha*

2 *County.*—There shall be four terms of said court held in
3 each year, commencing on the second Monday in January,
4 the second Monday in April, the third Monday in June
5 and the fourth Monday in September. Adjourned and
6 special terms of said court may be called and held as pro-
7 vided for special and adjourned terms of the circuit court.

CHAPTER 210

(Senate Bill No. 110—By Mr. Jones)

AN ACT to authorize and empower the county court of Mason county to set up a courthouse and jail building fund from surpluses thus far accumulated by the said county court and now retained in the general county fund, and also

from surpluses hereinafter accumulated in the general county fund, and to transfer from the general county fund any money therein thus far accumulated, or that may hereafter from year to year so accumulate over and above the money needed for the normal operation of said county, which said money so set up in said special fund may be used for enlarging, remodeling and improving the present courthouse and jail or for the construction of a new courthouse and jail on the present or another site and as well to purchase additional land from individuals, associations, or corporations, incident to the improvement of said courthouse and jail facilities.

[Passed February 23, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Authorizing Mason county to transfer from its general county fund all of the presently accumulated or hereafter accumulated surpluses into a courthouse and jail building fund and authorizing the county court of Mason county to spend the same for enlarging, remodeling and improving the present courthouse and jail, or for the construction of a new one, or for the purchase of additional real estate therefor.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Authorizing Mason County to Transfer from Its General County Fund All of the Presently Accumulated or Hereafter Accumulated Surpluses Into a Courthouse and Jail Building Fund and Authorizing the County Court of Mason County to Spend the Same for Enlarging, Remodeling and Improving the Present Courthouse and Jail, or for the Construction of a New One, or for the Purchase of Additional Real Estate Therefor.*—The county court of Mason county is hereby authorized and empowered to transfer from its general county fund all money or moneys therein and heretofore accumulated and held in said fund for building purposes, into a special courthouse and jail building account, and is further authorized and empowered from year to year to transfer from its general county fund into said special fund all surpluses that may accumulate in said general fund, and that said money or moneys so accumulated in said special fund may be expended for the enlarging, remodeling and im-

19 proving of the present courthouse and jail, or for the
20 construction of a new one on the present courthouse site
21 or on other presently owned county sites and that a por-
22 tion of said fund may be used for the purpose of acquiring
23 additional real estate, either by purchase or through
24 eminent domain, incident to presently owned county lots
25 that may be needed for the purpose of enlarging the same
26 sufficient to accommodate the construction of new court-
27 house and jail facilities.

CHAPTER 211

(House Bill No. 392—By Mr. Warden)

AN ACT to amend and reenact section eleven, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended, relating to the criminal court of McDowell county.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

11. Terms of McDowell county criminal court.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended, be amended and reenacted to read as follows:

Section 11. *Terms of McDowell County Criminal Court.*

2 —There shall be four terms of said court held in each
3 year, commencing on the second Tuesday in February,
4 the second Tuesday in May, the second Tuesday in August,
5 and the second Tuesday in November. Adjourned and
6 special terms of said court may be called and held as pro-
7 vided for special terms of the circuit court.

CHAPTER 212

(House Bill No. 69—By Mr. Carroll)

AN ACT to authorize and empower the county court of Nicholas county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special county building fund, and to use such fund for the purchase of land for the location of buildings, for the construction of new buildings and for enlarging, remodeling and improving county buildings.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Section

1. Authorizing the county court of Nicholas county to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing the County Court of Nicholas County to Create a Special Building Fund.*—The county court of Nicholas 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 or any other fund of said county for the purpose of creating a special county building fund for the purpose of purchasing land for the location of county buildings, for construction of new county buildings and for enlarging, remodeling and improving county buildings. The said county court is also authorized to expend for such purposes the fund so created.

CHAPTER 213

(House Bill No. 148—By Mr. Honecker and Mr. Hubbard)

AN ACT to authorize the board of commissioners of Ohio county to contract with the city of Wheeling in order to provide by purchase, construction, lease or otherwise, facilities for impounding dogs and providing for the maintenance and operation thereof, and authorizing said board

to use therefor any funds received by it under the provisions of section two, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-eight, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three.

[Passed March 3, 1951; in effect from passage. Approved by the Governor.]

Section

1. Facilities for impounding dogs.
2. Use of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Facilities for Impounding Dogs.*—The board of commissioners of Ohio county is authorized to contract with the city of Wheeling for the joint acquisition, maintenance and operation of facilities for impounding dogs under the provisions of sections one and seven, chapter eighty-three, acts of the Legislature, one thousand nine hundred twenty-five, and for that purpose to purchase, construct, lease or otherwise acquire facilities for impounding dogs.

Sec. 2. *Use of Funds.*—Said board may from time to time use such part of the funds as it may receive under the provisions of said chapter as it may determine are not necessary to provide compensation for loss or damage on account of the destruction, loss or injury by dogs of any sheep, lamb, goat or kid, for the purpose of carrying out the provisions of section one hereof.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 214

(House Bill No. 426—By Mr. Beneke, by request)

AN ACT to amend and reenact 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 sec-

tion 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 further amended, by chapter one hundred thirty-two, acts of the Legislature, one thousand nine hundred twenty-three; and last amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine.

[Passed March 6, 1951; in effect ninety days from passage. 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 constitution of the state of West Virginia", approved December thirty-first, one thousand eight hundred seventy-two, as amended 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, last amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

- Section 7. *Board of Commissioners of Ohio County;*
2 *Meetings; Compensation; Powers.*—The commissioners
3 elected as provided in section five shall constitute a
4 board, to be known as "the Board of Commissioners of
5 the County of Ohio", by which name they may sue and
6 be sued, and make and use a common seal, and enact
7 ordinances and by-laws not inconsistent with the laws
8 of this state. They will meet steadily on the first Monday
9 in every month, at the court house of their county, and
10 may hold special and adjourned meetings at any time

11 after their first meeting after election. They shall elect
12 one of their number president of the board, and appoint
13 a clerk, who shall hold his office at their pleasure, and
14 shall keep a journal of their proceedings, including a
15 record of their ordinances in a volume separate from the
16 journal of their proceedings, and shall perform such other
17 services pertaining to his office as may be by them or by
18 law required; and whose compensation shall be forty-
19 two hundred dollars annually, which salary shall be paid
20 from the county treasury and no fees or additional salary
21 shall be received by said clerk. The said board shall have
22 the same powers now vested in the board of commission-
23 ers of Ohio county as to the superintendence and adminis-
24 tration of the internal police and fiscal affairs of the
25 county, including the establishment and regulation of
26 roads, ways, bridges, public landings, ferries and mills,
27 the granting of ordinary and other licenses, with author-
28 ity to lay and disburse the county levies. The board shall,
29 in all contested cases, judge of the election, qualification
30 and returns of its own members, and of all county and
31 district officers; and it shall exercise such other jurisdic-
32 tion and perform such other duties as may be prescribed
33 by law. The said commissioners shall each receive a com-
34 pensation of forty-five hundred dollars annually, which
35 salary shall be paid from the county treasury and no fees,
36 commissions or additional salary shall be received by
37 any of said commissioners. Any commissioner may be
38 indicted for malfeasance, misfeasance or neglect of of-
39 ficial duty, and, upon conviction thereof, his office shall
40 become vacant. A vacancy in the board of commissioners,
41 whether from resignation, removal from the subdivision
42 from which he was elected, removal from office, death or
43 other cause, shall be filled by the remaining members of
44 the board.

45 All acts or parts of acts inconsistent herewith are here-
46 by repealed.

CHAPTER 215

(House Bill No. 23—By Mr. Gompers, by request)

AN ACT to amend and reenact section two, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, relating to the jurisdiction of the intermediate court of Ohio county.

[Passed February 23, 1951; in effect from passage. Approved by the Governor.]

Section

2. Jurisdiction of the court.

Be it enacted by the Legislature of West Virginia:

That section two, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, be amended and reenacted to read as follows:

Section 2. *Jurisdiction of the Court.*—The said court
2 shall have jurisdiction within the county of Ohio concur-
3 rent with the circuit court of said county, of all felonies,
4 misdemeanors and offenses committed within the said
5 county; and also original jurisdiction of all civil actions
6 at law, including motions for judgment under the pro-
7 visions of section six, article two, chapter fifty-six of the
8 code of West Virginia, one thousand nine hundred thirty-
9 one, where the amount or value in controversy, exclusive
10 of interest and costs, exceeds fifty dollars, and does not
11 exceed one thousand dollars, and of bastardy proceedings
12 under article seven, chapter forty-eight of the code of
13 West Virginia, one thousand nine hundred thirty-one; and
14 of all unlawful detainer cases, and also jurisdiction of
15 appeals from the judgment of the justices of said county
16 when such appeals shall lie to said court in the same man-
17 ner and under the same regulations as provided in the
18 general law for appeals from justices; and the court shall
19 also have jurisdiction concurrent with the circuit court
20 of said county as to the supervision and control of all
21 proceedings before justices of said county, or the mayor
22 or police judge or police court of any incorporated city,
23 town or village of said county by mandamus, prohibition

24 and certiorari; said intermediate court shall also have
25 jurisdiction, concurrent with the said circuit court, of
26 appeals from the police judge or the police court of the
27 city of Wheeling in said county.

CHAPTER 216

(House Bill No. 360—By Mr. Harmon)

AN ACT to authorize and empower the county court of Raleigh county to transfer funds, realized from the assessment and collection of head taxes on dogs, to the general county fund, for the use of said county court.

[Passed March 6, 1951; in effect from passage. Approved by the Governor.]

Section

1. County court of Raleigh county authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Court of Raleigh County Authorized to Transfer Dog Tax Fund.*—The county court of Raleigh 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 Raleigh 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 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 Raleigh county.

CHAPTER 217

(House Bill No. 25—By Mr. Wysong)

AN ACT to authorize and empower the county court of Webster county to transfer fourteen thousand dollars from the contractual debt fund to the Webster county memorial hospital fund of said county.

[Passed February 16, 1951; in effect from passage. Approved by the Governor.]

Section

1. Authorizing the Webster county court to transfer funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing the Webster County Court to*

- 2 *Transfer Funds.*—The county court of Webster county is
3 hereby authorized and empowered to transfer from the
4 contractual debt fund to the Webster county memorial
5 hospital fund, the sum of fourteen thousand dollars, and
6 to expend the said sum for the uses and needs of the said
7 Webster County Memorial Hospital.

- 8 All acts or parts of acts inconsistent herewith are here-
9 by repealed in so far as they may apply to the county of
10 Webster.

— 2 —

CHAPTER 218

(House Bill No. 149—By Mr. Pomroy)

AN ACT to authorize and empower the county court of Wirt county to transfer the unexpended balances in excess of seven hundred dollars, in the dog tax fund to the general county fund of said county.

[Passed March 3, 1951; in effect from passage. Approved by the Governor.]

Section

1. Wirt county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wirt County Court Authorized to Transfer*

- 2 *Dog Tax Fund.*—The county court of Wirt county is

3 hereby authorized and empowered to transfer the un-
4 expended balances in excess of seven hundred dollars
5 now in the dog tax fund of said county remaining, and
6 not needed for the payment and satisfaction of all claims
7 and expenses against said dog tax fund, to the general
8 county fund.

9 The county court of Wirt county is hereby authorized
10 and empowered to transfer and expend, from time to
11 time and as it may appear advisable, any part of the
12 dog tax fund to the general county fund, and to be used
13 and expended as a part of the general county fund, pro-
14 viding that at least seven hundred dollars shall remain
15 in the dog tax fund for the payment and satisfaction of
16 all claims and expenses against said dog tax fund.

17 All acts or parts of acts inconsistent herewith are here-
18 by repealed, insofar as they may apply to Wirt county.

CHAPTER 219

(Senate Bill No. 11—By Mr. Wylie)

AN ACT to repeal chapter one hundred sixty-three, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-nine, relating to the establishment of a court of limited jurisdiction in the county of Wyoming, to be known and designated as the "Criminal Court of Wyoming County," and prescribing the limitations thereof.

[Passed March 9, 1951; in effect ninety days from passage. Approved by the Governor.]

Section

1. Repeal of act.

Be it enacted by the Legislature of West Virginia:

Section 1. *Repeal of Act.*—Chapter one hundred sixty-
2 three, acts of the Legislature of West Virginia, regular
3 session, one thousand nine hundred forty-nine, be, and the
4 same is hereby, repealed, effective January one, one thou-
5 sand nine hundred fifty-three.

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Whitt)

[Adopted January 10, 1951.]

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 1:30 o'clock P. M., this day, that the Speaker of the House of Delegates may, in the presence of the Senate, open and publish the returns of the election of Treasurer and Attorney General (unexpired terms) elected at the general election held throughout the State on the 7th day of November, one thousand nine hundred fifty, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Doring)

[Adopted January 10, 1951.]

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 12 o'clock noon, on Tuesday, January 16, 1951, to hear the biennial message of His Excellency, Governor Okey L. Patteson.

HOUSE CONCURRENT RESOLUTION NO. 3

(By Mr. Doring)

[Adopted January 18, 1951.]

Concerning the great and unfortunate sorrow visited upon the Honorable Ernest L. Bailey and family.

WHEREAS, The Honorable Ernest L. Bailey and family have recently borne a tremendous burden of sorrow through the illness and death of Mrs. Bailey; and

WHEREAS, Mrs. Bailey was a devoted and faithful wife and mother; took an active interest in religious, civic, public welfare and charitable work and activities, and was a loyal and valuable member of numerous organizations engaging in such work; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the West Virginia Legislature hereby extend its sincere and heartfelt sympathy and understanding to Mr. Bailey and his family in their extreme misfortune and sorrow.

HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Kidd, of Gilmer)

[Adopted January 18, 1951.]

Providing for a parking space on the capitol grounds for automobiles of members of the Legislature.

WHEREAS, The state capitol building is located at such distance from the hotels in the City of Charleston that many members of the Legislature find it necessary to keep and maintain their automobiles in Charleston during the sessions of the Legislature; and

WHEREAS, The lack of parking facilities near the state capitol creates a severe hardship and inconvenience to the members of the Legislature; and

WHEREAS, There is sufficient parking space upon the north side of the capitol building, between the two units, and within the capitol grounds, for the parking of cars of members of the Legislature; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the parking space on the capitol grounds situate on the

north side of the capitol building, between the two units, be and the same is hereby reserved for the parking of cars of members of the Legislature, and the Superintendent of Capitol Buildings and Grounds is hereby directed to have proper signs erected in this space, reserving the same for parking of cars of members of the Legislature, and to take such steps as may be necessary to keep other cars from being parked upon the space so reserved, including a request to the Department of Public Safety for assistance in carrying out the purposes of this resolution; and, be it

Further Resolved, That the President of the Senate and the Speaker of the House of Delegates are hereby authorized to provide proper stickers or other identification for automobiles of the members of the Legislature in order to aid the officers in carrying out and enforcing this resolution.

HOUSE CONCURRENT RESOLUTION NO. 8

(By Mrs. Walker)

[Adopted February 13, 1951.]

Providing for a joint meeting of the House and Senate.

Resolved by the House of Delegates, the Senate concurring therein:

That the Senate and House of Delegates meet in joint session in the chamber of the House of Delegates at 2:20 P. M. today; and, be it

Further Resolved, That the President of the Senate, on the part of the Senate, and the Speaker of the House, on the part of the House of Delegates, appoint a committee of three from each House to invite His Excellency, the Governor, to be present for this joint assembly.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Rairden)

[Adopted March 10, 1951.]

Authorizing the State Road Commission to erect historic

markers locating the trail traveled by General Andrew Lewis from the Great Meadows, now Lewisburg, to Point Pleasant.

WHEREAS, The military campaign commanded by General Andrew Lewis, which ended with victory over the Indians at the site of Point Pleasant, West Virginia, on October 10, 1774, was an important factor in the success of the American Revolution; and

WHEREAS, Evidence indicates that Lewis' army when enroute to Point Pleasant encamped at campsites in or near Asbury, Elton, Backus, Crickmer, Winona, Mountain Cove, Rich Creek, Rock Camp, Cedar Grove and Charleston among other places; and

WHEREAS, Lewis' army campsites are in most cases unmarked; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State Road Commission of West Virginia be authorized to erect historic markers to locate the trail on which General Andrew Lewis' army traveled from the Great Meadows, (now Lewisburg) to Point Pleasant and along said trail where feasible to establish roadside parks at Lewis' army campsites.

HOUSE CONCURRENT RESOLUTION NO. 15

(By Mr. Rairden)

[Adopted March 10, 1951.]

Designating the anniversary of the Battle of Point Pleasant a Memorial day.

WHEREAS, On October 10, 1774, General Andrew Lewis with approximately eleven hundred men engaged in battle and defeated Chief Cornstalk with one thousand Indian braves at Point Pleasant; and

WHEREAS, The Battle of Point Pleasant resulted in peace for three years between the Americans and the Indians and left the Continental soldiers free to throw their full force against

the British in the American Revolution during that critical period; and

WHEREAS, The Battle of Point Pleasant thus contributed to the success of the armed forces of the American colonies in winning independence; therefore, be it

Resolved by the House of Delegates, the Senate Concurring therein:

That the tenth day of October each year, the anniversary of the Battle of Point Pleasant, be designated as a memorial day.

HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Parker and Mr. Earley)

[Adopted March 5, 1951.]

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 article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections twenty-two and twenty-three thereof, relating to toll bridges so as to provide for the collection and disposition of tolls for the use of the existing Parkersburg-Belpre bridge and the new Parkersburg-Belpre bridge to be constructed near the existing bridge."

HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Underwood)

[Adopted March 10, 1951.]

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 House of Delegates, the Senate concurring therein:

That the Legislature commend 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.

HOUSE RESOLUTION NO. 1

(By Mrs. Walker)

[Adopted January 10, 1951.]

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 D. Earl Brawley, from the County of Kanawha, be, and he is hereby, elected Sergeant-at-Arms of the House of Delegates.

That Herbert Schupbach, from the County of Wetzell, be, and he is hereby, elected Doorkeeper of the House of Delegates.

HOUSE RESOLUTION NO. 2

(By Mr. Kidd, of Gilmer)

[Adopted January 10, 1951.]

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-nine, are hereby adopted and shall govern the proceedings of this House.

HOUSE RESOLUTION NO. 3

(By Mr. Caplan)

[Adopted January 10, 1951.]

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. Davis)

[Adopted January 10, 1951.]

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 RESOLUTIONS

HOUSE RESOLUTION NO. 5

(By Mr. McCoy)

[Adopted January 10, 1951.]

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.

HOUSE RESOLUTION NO. 6

(By Mr. Blankenship)

[Adopted January 10, 1951.]

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. Davis)

[Adopted January 10, 1951.]

Authorizing the appointment of attaches and other employees

for the House of Delegates for the one thousand nine hundred fifty-one regular session of the Legislature.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby, authorized to appoint attaches and other employees to receive the per diem as herein provided, during this session of the Legislature:

(1) For the Clerk's office the following:

Two record clerks at 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 Journal stenographer at fifteen 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;

One assistant to the Sergeant-at-Arms at thirteen dollars per day, and two assistants to the Sergeant-at-Arms at eleven dollars per day each;

One clerk to the Sergeant-at-Arms at thirteen 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;

Eight janitors at nine dollars per day each; and, be it

Further Resolved, That all of the appointments made under authority of the foregoing provisions 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 and other employees for consecutive days from the date of their employment, at the per diem herein set out, until such time as their services shall cease. The Speaker may remove any attache 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 attache or attaches for any such time or number of days as their services shall not be needed during the session, and they shall not be paid for such time, nor shall other persons be

appointed into their places for any such time as they may be suspended when not needed; and, be it

Further Resolved, That the Speaker is hereby authorized to assign attaches 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; and, be it

Further Resolved, 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 authorized by the Rules of the House as herein set out for this session of the Legislature:

(1) The Clerk of the House shall receive twenty-five dollars per day, but shall not receive the compensation provided in Account No. 102, Chapter 9, Acts of the Legislature, regular session, one thousand nine hundred forty-nine; 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,

(2) 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,

(3) The Chaplain appointed by the Speaker under the rules shall receive seven dollars per day.

The per diem of officers and appointments made under authority of the House Rules 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. 8

(By Mr. Hunt)

[Adopted January 10, 1951.]

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. 9

(By Mr. Stidham)

[Adopted January 10, 1951.]

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. 10

(Originating in the Committee on Rules)

[Adopted January 24, 1951.]

Amending Rule No. 138 of the House Rules relating to news correspondents.

Resolved by the House of Delegates:

That Rule No. 138 of the standing rules of the House of Delegates be amended to read as follows:

138. (a) Any person accorded the privilege of a news correspondent must be the telegraphic correspondent of a daily newspaper, or of a recognized press association, who is not engaged in any department of the state government, or in any other business or must be the official reporter of a Charleston daily newspaper; and no more than one representative of each newspaper shall be admitted to the press tables within the chamber or press gallery at one time: *Provided, however*, That the Rules Committee may accord the privilege of a news correspondent to a radio news correspondent, or a correspondent of any paper, whether published weekly or otherwise which the committee deems a proper news source.

(b) All applications for admission to the press gallery or press table must be made to the Speaker. Applications for a newspaper correspondent shall state the name of the newspaper, its location, times of publication, and be signed by the applicant. Applications for a radio correspondent shall state the name of the station, its location, and be signed by the applicant. Applications for any other news correspondent shall

state the name of his employer, the location of employer's business, to whom and at what times the news to be obtained by him is to be published and be signed by the applicant.

(c) The Speaker shall verify statements made in such application, and if the application is recommended by him and approved by the Rules Committee, the Speaker shall issue a correspondent's card signed by him.

(d) The correspondents shall not visit the members in their seats during the session of the House, and shall abide by such rules and regulations as may be adopted by the Rules Committee of the House.

(e) The card issued by the Speaker must be presented when required by any Sergeant-at-Arms. It shall not be transferable. The transfer or loan of such card to any one shall be followed by its cancellation and the withdrawal of all its privileges from the correspondent so offending.

(f) The gallery or press tables allotted to news correspondents shall be for their exclusive use, and persons not holding correspondents' cards shall not be entitled to admission thereto.

The press gallery shall be located behind and above the Speaker's dais. The Rules Committee shall provide a proper entrance to the gallery from the room directly behind the gallery alcove, which room will be reserved for the exclusive use of the news correspondents. Suitable equipment also shall be provided by the Rules Committee for the convenience of the news correspondents.

HOUSE RESOLUTION NO. 11

(By Mr. Doring)

[Adopted January 25, 1951.]

Authorizing payment of expenses of members of standing committees, and subcommittees thereof, incurred in visiting state institutions.

WHEREAS, Various members of standing committees and subcommittees thereof have visited state institutions as directed by the various committees, and incurred certain expenses for

hotel, transportation, meals, stenographic service and other miscellaneous expenses in connection with these visits; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, in favor of the members of such subcommittees, to reimburse them for money expended in the visiting and inspecting of said state institutions.

HOUSE RESOLUTION NO. 12

(By Mr. Whetsell)

[Adopted January 25, 1951.]

Expressing the appreciation of the House of Delegates to the United States Senate Crime Investigation Committee.

WHEREAS, We recognize the tremendous economic loss running into billions annually of organized crime in the United States; and

WHEREAS, We recognize the great moral impact on our entire population, and especially our youth, by these criminal practices; and

WHEREAS, We feel that the Committee to Investigate Crime created by the United States Senate has done a magnificent job in exposing these criminal elements; and

WHEREAS, We have been deeply shocked at the recent disclosure where criminals have paid public officials in West Virginia; and

WHEREAS, We appreciate the assistance of this agency in exposing the ramifications of these criminal groups; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates of the State of West Virginia hereby extends to the said Committee, through its Chairman,

Senator Estes Kefauver, our appreciation for the magnificent service they are rendering our country; and, be it

Further Resolved, That we extend to them every cooperation possible and ask that all public officials in West Virginia do likewise; and, be it

Further Resolved, That a copy of this resolution be forwarded by the Clerk of the House to the Committee.

HOUSE RESOLUTION NO. 13

(By Mr. Stidham and Mr. Mills)

[Adopted February 6, 1951.]

Relating to an investigation of the State Department of Mines and certain personnel thereof.

WHEREAS, It has come to the attention of certain members of the House of Delegates by evidence that appears credible, that certain provisions of the state mine law are not being complied with by the Chief of the Department of Mines and his subordinates; therefore, be it

Resolved by the House of Delegates:

That the Speaker of the House forthwith appoint a committee of five members of the House to conduct an investigation of the State Department of Mines, the Chief of the Department of Mines, and any subordinate official or employee of said department, for the purpose of ascertaining whether said chief or his subordinates or employees, are directly or indirectly interested in a financial way in any coal mines in this State.

HOUSE RESOLUTION NO. 16

(By Mr. McElwee)

[Adopted February 19, 1951.]

Providing for the appointment of a committee to investigate charges of attempted bribery of a member of the House of Delegates.

WHEREAS, On Friday, February 16, 1951, the statement was made on the floor of the House that a bribe of one thousand dollars had been offered a member of the House of Delegates if such member would cast a vote favorable to a motion which was to come before the House at its session on said date; and

WHEREAS, This charge is of such consequence to the House of Delegates that it cannot be ignored; therefore, be it

Resolved by the House of Delegates:

That a select committee of five members with minority representation be appointed by the Speaker with authority and direction to investigate thoroughly every phase of the alleged attempt of bribery by whomsoever may have committed this unlawful act.

The committee shall have power and authority to administer oaths, subpoena witnesses and demand attention to its commands. It shall be given stenographic and other help by the attaches of the House of Delegates, and if necessary, may employ such persons as it may deem necessary to assist in the conduct of its investigation. Any expense incurred by the committee shall be paid out of the contingent fund of the House of Delegates.

The committee shall make its report and recommendations to the House of Delegates before the adjournment of this session of the Legislature. It shall furnish the Governor of the State of West Virginia and the Prosecuting Attorney of the County of Kanawha a copy of its report and recommendations.

The Sergeant-at-Arms of the House of Delegates shall cause to be served such summonses as the committee may issue, execute such orders as the committee may direct and render any other assistance the committee may from time to time order.

HOUSE RESOLUTION NO. 17

(Originating in the Committee on Rules)

[Adopted February 20, 1951.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the House of Delegates:

That beginning February 23, 1951, 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. 19

(By Mr. Phillips and Mr. Hubbard)

[Adopted March 6, 1951.]

Creating a special interim subcommittee of the House of Delegates Committee on Humane Institutions, and defining its powers and duties.

WHEREAS, The House of Delegates Committee on Humane Institutions is the inspection agency of the House for many state institutions; and

WHEREAS, Said committee is now confined to biennial inspections, during the regular sessions of the Legislature, which inspections are sufficient to give only the barest report of the progress of the institutions; and

WHEREAS, Inasmuch as the Legislature determines the basic programs for all of the state humane institutions, a more inti-

mate knowledge of the institutions is desirable; therefore, be it

Resolved by the House of Delegates:

That the Speaker shall appoint three members of the Committee on Humane Institutions as a special interim subcommittee thereof, and authorize said subcommittee to inspect any or all of the state institutions in the months of July, August and September of the years one thousand nine hundred fifty-one and one thousand nine hundred fifty-two, and to make report of its findings to the House of Delegates not later than February one, one thousand nine hundred fifty-three; and be it

Further Resolved, That the members of the aforesaid interim subcommittee be paid not more than fifteen dollars per day to defray their expenses in making such inspections and in the necessary travel therefor. The cost of such interim committee shall not exceed the sum of one thousand dollars.

HOUSE RESOLUTION NO. 20

(By Mr. Loop)

[Adopted March 7, 1951.]

Relating to heating and ventilation of the House chamber.

WHEREAS, It is generally recognized that air is good when it is not too warm, neither too dry nor too moist, and constantly in motion, and that temperature, humidity, and movement must be kept correct if one is to be mentally and physically alert and energetic; and

WHEREAS, The Chamber of the House of Delegates does not have proper facilities for changing the air when the aisles and galleries are packed, as they have been upon several occasions this session; and

WHEREAS, The Chamber has often been so laden with smoke and other noxious odors as to be so offensive to the olfactory nerves that no amount of air-wick would counteract the "stuffy" atmosphere; and

WHEREAS, Bad air often is conducive to drowsiness, headaches,

and nausea, all of which might retard good legislation, therefore, be it

Resolved by the House of Delegates:

That the Board of Control be requested to take such action as is necessary to properly heat and ventilate the Chamber of the House of Delegates before the convening of the 1953 session; and, be it

Further Resolved, That the Board of Control be authorized to draw upon the contingent fund of the House of Delegates for the expenses of such heating and ventilation, not to exceed \$10,000.00.

HOUSE RESOLUTION NO. 21

(By Mr. Davis)

[Adopted March 10, 1951.]

Relating to offices, furniture and equipment for the House of Delegates.

WHEREAS, It has become apparent that in the construction of the capitol building little consideration was given to providing suitable offices and committee rooms for the legislative branch of the state government from the standpoints of convenience and utility; and

WHEREAS, Additional filing space and equipment is badly needed for the House Document Room, for the clerk's office and for other offices and committee rooms; and

WHEREAS, Consideration should be given to location of permanent legislative offices and to the rearrangement and alteration of available office space to provide the greatest degree of convenience and service to members; therefore, be it

Resolved by the House of Delegates:

That the House Committee on Rules be and it is hereby authorized to make a study of the entire office and equipment and furniture needs of the House of Delegates; and, be it

Further Resolved, That said committee is hereby empowered

to contract for the alteration of present office space, and to purchase such furniture and equipment as it may deem necessary, within the limitation of funds herein provided; and, be it

Further Resolved, That if the committee finds it advisable in carrying out the intention of this resolution, said committee is hereby authorized to expend for services in making alterations and for the purchase of supplies, furniture and equipment for such House offices and committee rooms a sum of not to exceed twenty thousand dollars to be paid from the contingent fund of the House of Delegates upon the presentation of proper bills therefor approved by the chairman of the committee.

HOUSE RESOLUTION NO. 22

(Originating in the Committee on Rules)

[Adopted March 10, 1951.]

Relating to preservation and use of the recordings of this session of the Legislature.

Resolved by the House of Delegates:

That following the close of the session, all magnetic recording tapes used in recording the proceedings of this session of the Legislature shall be deposited in the vault in the Speaker's Office and no transcriptions or recordings of proceedings or remarks of members shall be made therefrom unless upon the request of the members whose remarks are involved and with the approval of the Committee on Rules: *Provided*, That such recording tape may be used in transcribing remarks of members which have been ordered printed in the Journal during the session.

HOUSE RESOLUTION NO. 23

(By Mr. Rairden)

[Adopted March 10, 1951.]

Requesting the director of the Department of Public Assistance

to rescind a regulation relating to amount of real estate recipients of public assistance may hold.

WHEREAS, The Department of Public Assistance has issued a regulation declaring the possession of five acres of land is all that a recipient of public assistance can have in West Virginia; and

WHEREAS, We feel that this definitely violates the intent of the law; therefore, be it

Resolved by the House of Delegates:

That we express to the Director of the Department of Public Assistance our desire that he rescind his regulation known as "Change in Policy Governing Need, Resources, Boarding Care and Physical Incapacity" issued April 18, 1950, which regulation limits the assistance recipients to five acres of land because we feel that such regulation works an unjust hardship on many needy persons, and, be it

Further Resolved, That the Clerk of the House of Delegates be instructed to send a copy of this resolution to the State Director of the Department of Public Assistance.

HOUSE RESOLUTION NO. 24

(Originating in the Committee on Rules)

[Adopted March 10, 1951.]

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 the 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, head-noted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, and with a full table of contents.

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 to each of the state officials, judges of the supreme court of appeals, circuit, criminal, common pleas and intermediate courts of this state, and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him. When the bound volumes of the Acts are completed, ten copies of same shall be mailed to each member of the Legislature.

The Clerk of the House is also authorized and directed to have printed in signature form for advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

For the work required in printing and distributing advance copies of the Acts; and for the proofreading, indexing and printing the bound volumes of the Acts of this session of the Legislature; and for the purpose of completing the other work of this session in arranging and filing of all bills, resolutions and other official papers in the Clerk's office; and for indexing and proofreading of the corrected House Journals, and to include therein a simple index of all bills introduced in the 1951 session of the Legislature, and printing thereof, the per diem of the Clerk, one Assistant Clerk, and the Secretary to the Clerk is extended for one hundred fifty days, and the time of one assistant Clerk is extended for thirty days, all at the same per diem as paid during the 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; two proofreaders for one hundred twenty days each; a supervisor of the docu-

ment room for five days; a secretary to the minority for six days; one clerk to the Committee on Enrolled Bills for five days; one supervisor of offices and property for seven days; and four janitors for six days each; 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 to the Speaker is extended for ninety days 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 persons 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 person appointed under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place or to fill any vacancy that may occur.

The Clerk 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 officers in the House of Delegates, the remainder shall be turned over to the supervisor of public printing.

To pay postage or expressage on Acts 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. 25

(By Mr. Knight)

[Adopted March 10, 1951.]

Establishing the Third House.

WHEREAS, It has been the custom for many years past to

have members of the press and radio preside at a Third House; and

WHEREAS, This 50th session of the Legislature is about to adjourn *sine die*; and

WHEREAS, It would be a shame not to again have same; therefore, be it

Resolved by the House of Delegates:

That this body hereby goes on record establishing the session of the Third House for the evening of March 10th, 1951, at about 8 P. M., the exact time to be fixed as that before a night meeting begins; and, be it

Further Resolved, That Charles R. Armentrout of The Charleston Gazette, who has served in the same capacity before, again be named speaker of the Third House; and, be it

Further Resolved, That Rush D. Holt, correspondent for the Ogden newspapers, be named minority leader since that is a group with which he is more than somewhat familiar; and, be it

Further Resolved, That Lee Garrett of the Associated Press be majority leader.

HOUSE RESOLUTION NO. 26

(By Mr. Knight)

[Adopted March 10, 1951.]

Relating to the departure of a member of the legislative press corps from the State of West Virginia.

WHEREAS, H. Lee Garrett, state editor and longtime member of the Associated Press of West Virginia, has been transferred and elevated to a position of more trust and prominence by the world wide AP; and

WHEREAS, The same H. Lee Garrett will depart immediately at the conclusion of the 50th Legislature to assume his new duties with the Associated Press in Washington, D. C.; therefore, be it

Resolved by the House of Delegates:

That the same H. Lee Garrett stand commended for his fair, accurate and unbiased news reporting of the sessions of the West Virginia Legislature in the years of 1947, 1949 and 1951, and that this body extend to him good wishes for his continued success as a legislative news reporter in the nation's capital; and, be it

Further Resolved, That Mr. Garrett be and he is hereby made an honorary member of the legislative press corps of the West Virginia House of Delegates, and that he stand and be recognized before this House.

HOUSE RESOLUTION NO. 27

(By Mr. McCoy)

[Adopted March 10, 1951.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die*.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

HOUSE RESOLUTION NO. 28

(By Mr. Kidd, of Gilmer)

[Adopted March 10, 1951.]

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. Hardesty)

[Adopted January 10, 1951.]

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-nine, are hereby adopted and shall govern the proceedings of this session.

SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Jackson, of Logan)

[Adopted January 10, 1951.]

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 account may become due.

SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Bowling)

[Adopted January 10, 1951.]

Providing for a recess of the Legislature.

Resolved by the Senate, the House of Delegates 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 16, 1951, at 11 A. M.

SENATE CONCURRENT RESOLUTION NO. 6

(Originating in the Committee on Forestry and Conservation)

[Adopted February 9, 1951.]

Creating an interim committee of the Legislature for the purpose of making a thorough study, survey and investigation of matters affecting conservation in the State of West Virginia.

WHEREAS, Certain problems affecting conservation in the State of West Virginia require more extensive research and more detailed study than the demands of a regular legislative session will permit; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That an interim committee be created, which shall be designated as "Interim Committee on Conservation", consisting of five members of the Senate, not more than three of whom shall be members of the same political party, to be appointed by the President thereof, and five members of the House of Delegates, not more than three of whom shall be members of the same political party, to be appointed by the Speaker thereof, for the purpose of making a thorough study, survey and investigation of the following:

1. The operation, administration, management, expenditures, finances, policies and practices of the conservation commission of West Virginia.
2. Conservation services rendered by any other department of state with respect to game, fish, forests, land and streams with a view toward elimination of duplication of services and expenditures by such departments.
3. The status of the Conservation Commission of West Virginia and other departments of the State under agreements with the government of the United States, its agencies and subdivisions, pertaining to conservation.

4. Such other matters as the committee may deem it advisable to study and which will, in the opinion of the committee, aid and improve conservation, hunting, fishing and recreation in the State of West Virginia.

That prior to the convening of the next regular session of the Legislature the committee hereby raised shall make and issue reports to the governor and to the Legislature, together with such recommendation and proposed legislation as may in the opinion of the committee aid in the solution of the problems considered.

That in connection with any particular problem under consideration the governor be and he is hereby authorized to appoint an advisory committee of twelve representatives citizens of the State, two of whom shall come from each of its six congressional districts and whose duty it shall be to consult and advise with the interim committee concerning the best solution of such problems.

The committee shall elect a chairman and a vice chairman from its membership and is authorized to employ such assistants as may be needed, and to fix compensation within the amounts made available by the appropriation therefor, and to pay other expenses necessary or incident to the study and investigation hereby directed. Such committee may meet anywhere within the State, may take testimony, subpoena witnesses and require the production of such books, records and papers as may be necessary to carry out the spirit of this resolution.

Vacancies occurring for any cause in the membership of the interim committee on conservation or its advisory committee shall be filled by the officer authorized to make the original appointment.

The committee is authorized to fix the amount to be paid the members of the interim and advisory committees as an allowance for their expenses not to exceed fifteen dollars a day per member, and for their mileage.

The sum of fifteen thousand dollars, or so much thereof as may be needed, is hereby appropriated for the expenses of the committee, one-half thereof to be paid from the contingent

fund of the Senate and one-half thereof to be paid from the contingent fund of the House of Delegates, upon proper requisition of the clerk of the two Houses.

The Clerk of the House of Delegates, and the Clerk of the Senate, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the Senate and the contingent fund of the House of Delegates for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee, or by some person authorized so to sign by the committee.

SENATE CONCURRENT RESOLUTION NO. 8

(By Mr. Stemple)

[Adopted February 21, 1951.]

Requesting the Postmaster General of the United States to issue a commemorative stamp for the one hundredth anniversary of the covered bridge at Philippi, West Virginia.

WHEREAS, The Barbour County Historical Society, with headquarters at Philippi, West Virginia, is planning a celebration in the year one thousand nine hundred fifty-two in commemoration of the one hundredth anniversary of the covered bridge at Philippi, West Virginia; and

WHEREAS, Such bridge is one of the few remaining two-lane covered bridges in the United States and is of great historical value to the State of West Virginia; and

WHEREAS, Such celebration is a matter of state-wide interest to the citizens of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Postmaster General of the United States be, and he is hereby, respectfully requested to issue a proper commemorative stamp for such one hundredth anniversary of the covered bridge at Philippi, West Virginia, in the year one thousand nine hundred fifty-two.

SENATE RESOLUTION NO. 1

(By Mr. Allen)

[Adopted January 10, 1951.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-nine, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 2

(By Mr. Eddy)

[Adopted January 10, 1951.]

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. Bean)

[Adopted January 10, 1951.]

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. Reed, of Preston)

[Adopted January 10, 1951.]

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 17, 1951.]

Authorizing the appointment of attaches and other employees for the Senate for the one thousand nine hundred fifty-one 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 50th session of the West Virginia 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 receptionist, at ten dollars per diem;
- One clerk to the Judiciary Committee, at sixteen dollars per diem;
- One assistant clerk to Judiciary Committee, at fourteen dollars per diem;
- One stenographer to the Judiciary Committee, at thirteen dollars per diem;
- One clerk to Finance Committee, at sixteen dollars per diem;
- One assistant clerk to Finance Committee, at fourteen dollars per diem;
- One stenographer to Finance Committee, at thirteen dollars per diem;
- Two committee clerks at large, at fourteen dollars per diem;
- One secretary to Education Committee, at fourteen dollars per diem;
- Ten journal and mailing room clerks, at ten dollars per diem;
- Ten document room clerks, at ten dollars per diem;
- One first assistant doorkeeper, at thirteen dollars per diem;
- Seven assistant doorkeepers, at ten dollars per diem;
- Eight typists, at ten dollars per diem;
- Six floor stenographers, at twelve dollars per diem;
- Five committee-clerk stenographers, at thirteen dollars per diem;
- Five clerk-stenographers, at thirteen dollars per diem;
- Five 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;
One sergeant-at-arms, at fourteen dollars per diem;
One doorkeeper, at fourteen dollars per diem;
One Clerk, at thirty 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. Allen)

[Adopted January 23, 1951.]

Concerning the death of the Honorable B. Cleo Casto.

WHEREAS, The Senate has learned of the death of the Honorable B. Cleo Casto, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplors the untimely death of Senator Casto, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 7

(By Mr. Taylor, of Fayette)

[Adopted February 6, 1951.]

Concerning the death of the Honorable A. B. Abbot.

WHEREAS, The Senate has learned of the death of the Honorable A. B. Abbot, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the untimely death of Senator Abbot, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 8

(By Mr. Traubert)

[Adopted February 13, 1951.]

Concerning the death of the Honorable George L. Bambrick.

WHEREAS, The Senate has learned of the death of the Honorable George L. Bambrick, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the untimely death of Senator Bambrick, and expresses its sincere sympathy to his loved ones; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 9

(By Mr. Bean)

[Adopted February 14, 1951.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the Senate:

Beginning, February 19, 1951, 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. Stemple)

[Adopted February 14, 1951.]

Concerning the death of the Honorable Charles E. Carrigan.

WHEREAS, The Senate has learned of the death of the Honorable Charles E. Carrigan, a former member who served in the sessions of 1903 and 1905, and the father of the Honorable John E. Carrigan, presently a member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body, a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the death of the Honorable Charles E. Carrigan, and expresses its sincere sympathy to his widow

and to our fellow member and colleague, Senator John E. Carigan; and, be it

Further Resolved, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend, together with a copy of this resolution.

SENATE RESOLUTION NO. 11

(By Mr. Johnston, Mr. President)

[Adopted March 10, 1951.]

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 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 thirty dollars is hereby extended for one hundred and eighty days.

The Clerk of the Senate is hereby authorized to employ the following assistance 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 fourteen 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 twelve dollars per diem;

Two Journal Stenographers for thirty days, at thirteen 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 twelve 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. 12

(By Mr. Bean)

[Adopted March 10, 1951.]

Raising a committee to notify the House of Delegates that the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

SENATE RESOLUTION NO. 13

(By Mr. Bean)

[Adopted March 10, 1951.]

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 1951 Legislature. The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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